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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,

v.
DILIP NYALA,
MICHAEL IRWIN

ID
Nos. 131000034
1309012464

Defendants.

BEFORE: HON. WILLIAM C. CARPENTER, JR., J.

TRANSCRIPT OF OCME EVIDENTIARY HEARING

JOHN P. DONNELLY, RPR
CHIEF COURT REPORTER
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July 8, 2014
Courtroom No. 8B
12:45 p.m.

JOSEPH GRUBB, ESQUIRE
DEPARTMENT OF JUSTICE
Wilmington, Delaware 19801
for State of Delaware

PATRICK J. COLLINS, ESQUIRE
ALBERT J. ROOP, V, ESQUIRE
COLLINS & ROOP
Wilmington, Delaware 19801
for Defendants

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1 MR. GRUBB: My it please the Court, Joseph
2 Grubb for the State. Preliminarily, Your Honor.

3 THE COURT: We probably need the defendants.

4 MR. GRUBB: Sorry, Your Honor. I didn't
5 realize they weren't here.

6 THE COURT: I did get Mr. Collins' e-mail last
7 night. The outline he set forth in the e-mail is fine
8 with me.

9 MR. GRUBB: I am going to do it differently.
10 What our plan is, Mr. Collins and I have been speaking,
11 I know he can supplement the record once I am done.
12 Your Honor, the State intends to call five witnesses
13 this afternoon to respond and present testimony with
14 respect to the two motions in limine that the defense
15 has presented against Michael Irwin and Dilip Nyala.

16 The State will present the Wilmington Police
17 Department drug custodian, the Delaware State Police
18 drug custodian, James Daneshgar from the Office of the
19 Chief Medical Examiner, Gary Taylor from the Department
20 of Justice, and Officer Thomas Maiura from the Newark
21 Police who acted as the auditors once the drugs were
22 removed from the Office of the Chief Medical Examiner.

23 The Exhibits that will be submitted are

1 stipulated by both parties. Mr. Collins has presented
2 packets with documents that we have exchanged through
3 the course of discovery. We agreed to mark those as
4 the first four Exhibits. There are a number of
5 photographs we will put in, as well.

6 I have asked a number of employees from the
7 Office of the Chief Medical Examiner to be present this
8 afternoon. They are waiting outside, as I have asked
9 them to do in the event Mr. Collins chooses to call
10 them as witnesses, but the State will not be putting
11 them forth as witnesses in their case.

12 Secondly, the defense has intimated they
13 would like the Chief Investigative Officer with respect
14 to the investigation at the OCME to testify, as well.
15 It is not the State's intention to put that officer on
16 the stand. We have made that officer available, as
17 well, should Mr. Collins wish to call him.

18 MR. COLLINS: Good afternoon, Your Honor.

19 THE COURT: Good afternoon.

20 MR. COLLINS: Just to make a record, Patrick
21 Collins and AJ Roop for Dilip Nyala and Michael Irwin.
22 I appreciate the State setting forth their batting
23 order for today. I think it would be a good

1 accomplishment to get through all the chain of custody
2 aspect of the case. The witnesses that they don't
3 call, may be a couple that we do call from the OCME,
4 strictly related to some brief direct or chain of
5 custody issues, subject to recall for what I consider
6 to be the next part of the hearing about the actual
7 OCME issues and investigation.

8 So there may be some brief direct from the
9 defense strictly confined for today to chain of
10 custody, at least that is the plan. I am hoping in the
11 very near future, hoping for next week, we can wrap
12 this up and get some testimony from the OCME
13 investigator, as well. As the Court is aware we have
14 an expert witness to testify. We will be calling both
15 those witnesses. I would like to, perhaps, get our
16 calendars out when we conclude today. Since the State
17 is making the investigator available, I think that is
18 really going to streamline things as far as calling a
19 parade of witnesses from the OCME. If we get good
20 testimony from that witness, that will make things a
21 lot shorter.

22 So I am hoping to get to that as soon as we
23 can reconvene. For today, we are pretty much sticking

1 to the chain of custody issues.

2 THE COURT: There was one point in time a
3 request that your expert be here. Is he here,
4 physically here?

5 MR. COLLINS: He is here, Joseph Bono. I
6 haven't had a chance to introduce him to Mr. Grubb. He
7 is here.

8 THE COURT: You may call your first witness.

9 MR. GRUBB: State calls Corporal Aaron Lewis.

10 AARON LEWIS,

11 having been first called by the State was sworn on
12 oath, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. GRUBB:

15 Q. Good afternoon, sir.

16 A. Good afternoon.

17 Q. Corporal, can you please tell us where you are
18 employed?

19 A. Wilmington Police Department.

20 Q. How long have you been with the Wilmington
21 Police Department?

22 A. Since 2008.

23 Q. What is your current job within the Wilmington

1 Police Department?

2 A. I am the narcotics control officer.

3 Q. Explain what that means, please?

4 A. My job is to safely store, collect, log all
5 drug evidence through our department.

6 Q. How long have you been doing that?

7 A. Since June of last year.

8 Q. You still currently do that?

9 A. Yes, sir.

10 Q. So since June 2013, right?

11 A. Yes.

12 Q. You said to safely store and secure, explain
13 for the Court, please, the process by which drug
14 evidence is stored within the Wilmington Police
15 Department?

16 A. For our whole department we have a drug locker
17 on the second floor in our department where officers
18 and supervisors have to store the drugs inside the
19 locker and then when I am at work, I empty out the
20 locker, bring it down to my office, log evidence in the
21 computer and in the book, and safely store it in our
22 drug safe, which is located in my office, and it is
23 held there until it's ready to go out for testing.

1 Q. What has access to the locker on the second
2 floor that you described first?

3 A. All supervisors.

4 Q. Do you?

5 A. Yes.

6 Q. Who has access to the second safe that you
7 referred to as your own?

8 A. Myself, my captain, and the Chief of police.

9 Q. When we say access, how are lockers secured?

10 A. By lock.

11 Q. Is it a combination lock, key pad, describe
12 it?

13 A. Key lock.

14 Q. Is there a process in place for documenting
15 and logging when drug evidence is moved from one point
16 to another within your police department?

17 A. Yes. Everything is logged into a computer
18 where it's transported back and forth.

19 Q. Prior to February 20, 2014, was part of your
20 job duties to transport drug evidence to the Office of
21 the Chief Medical Examiner?

22 A. Yes.

23 Q. Did you do that at regularly scheduled

1 intervals?

2 A. Yes, my appointment was every Monday at
3 1 o'clock.

4 Q. You say your appointment, is that something
5 that you would have to set up with the Medical
6 Examiner's Office?

7 A. Yes.

8 Q. How would you do that, sir?

9 A. When I first took over the job, I was told by
10 the officer that did it before, when I met with the
11 person at the ME's office, we made it clear to make
12 sure that my appointment was every Monday at 1 o'clock.

13 Q. Would there be specific drug evidence
14 envelopes that you would take with you every Monday at
15 1 o'clock?

16 A. Yes. Whatever I took out of the office that I
17 logged, I would make a sheet on the evidence submission
18 report, whatever is on that sheet, I take over to the
19 ME's office.

20 Q. Prior to doing that, did you have any
21 procedure in place where you would check the drug
22 evidence envelopes for imperfections or evidence of
23 tampering?

1 A. When I empty out the locker, I check the
2 evidence for any sign of evidence being tampered with.
3 If I do come across anything, I would automatically
4 advise a supervisor.

5 Q. You said you usually do, do you do it every
6 time?

7 A. Every time.

8 Q. Walk us through what your process is when you
9 are inspecting those envelopes for imperfections or
10 evidence of tampering?

11 A. I look at all sides of the envelope, front and
12 back, corners and just make sure that nothing was
13 opened, resealed, and the original tape is on there.

14 Q. Did you yourself open the drug envelopes to
15 verify the contents?

16 A. No, I do not.

17 Q. Is there any reason?

18 A. That is not protocol for our department.

19 Q. I am going to put on the screen a number of
20 different documents. The entire packet has been marked
21 as State's Exhibit 1. This is page one of State's
22 Exhibit 1.

23 Are you able to see that, Corporal?

1 A. Yes, sir.

2 Q. Do you recognize it?

3 A. Yes.

4 Q. What is it?

5 A. This is our logging system that I have in our
6 computer. Like I said before, every time I get a piece
7 of evidence, I log in the case number, name of the
8 defendant, officer, where I retrieved it from, date and
9 time, date I take it to the Medical Examiner's Office,
10 date and time, and when I place it in the safe, when it
11 was returned to me from the Medical Examiner's Office.

12 Q. What is the defendant's name associated with
13 page one of State's Exhibit 1?

14 THE COURT: Before you continue, I am not
15 getting -- I have no screen. You have any reason mine
16 did not work?

17 MR. GRUBB: May I approach the witness? We
18 have an extra hard copy I can hand up to the Court.
19 Which name is listed as the defendant on State's
20 Exhibit 1.

21 A. Nyala Dilip.

22 Q. And the officer's name as indicated on this
23 page?

1 A. Randy Pfaff.

2 Q. He is the Chief Investigative Officer for this
3 case?

4 A. Yes.

5 Q. You also have retrieved date, what does that
6 mean?

7 A. Where I retrieved the drugs from.

8 Q. You have a corresponding time on there?

9 A. Yes.

10 Q. You have location you got it from?

11 A. Yes.

12 Q. Just says drug locker, is that the second
13 floor locker that you testified to previously?

14 A. Correct.

15 Q. Who puts this information in the form, is it
16 you?

17 A. I do.

18 Q. Is it a drop down menu, or do you have to type
19 the information in?

20 A. I have to type the information in.

21 Q. Go back down, it says date to ME, is that
22 Medical Examiner's Office, sir?

23 A. Yes.

1 Q. What date does that say?

2 A. 10/7/2013.

3 Q. Time?

4 A. 1300 hours, 1 o'clock.

5 Q. Date retrieved from ME?

6 A. 5/29/2014.

7 Q. It wasn't actually retrieved from the Medical
8 Examiner's Office, was it, sir?

9 A. No.

10 Q. Are you able to edit that box which gives you
11 options there from date from ME?

12 A. You are not able to edit the boxes stored on
13 there. Normally down where it says remarks, I would
14 put any additional information on there.

15 Q. What information did you put there?

16 A. I have on 7/1/2014, the evidence was brought
17 up to -- Lewis retrieved from Sergeant McCarthy at
18 Troop 2 on 5/19 -- 29/14 at 1340 hours, and transported
19 it back to WPD drug safe for storage.

20 Q. Can you tell us why you retrieved it from
21 Sergeant McCarthy, as opposed to the Medical Examiner's
22 Office as is indicated?

23 A. That is where the evidence was stored out of

1 Troop 2.

2 Q. You list drugs on there, correct?

3 A. Yes.

4 Q. Is that standard procedure?

5 A. Yes.

6 Q. What drugs do you have listed on there?

7 A. Crack cocaine on there, regular cocaine,
8 marijuana, and heroin.

9 Q. Under the crack cocaine box you have the
10 number 48; is that correct?

11 A. Correct.

12 Q. What does that indicate?

13 A. How many grams of crack cocaine.

14 Q. Now, do you weigh it yourself, or are you
15 going off information from seizing officers?

16 A. Information off the envelope.

17 Q. Were you able to learn anything with respect
18 to the crack cocaine in this case as to how they came
19 up with the 48 grams for the crack cocaine?

20 A. From Detective Randy Pfaff, yes.

21 Q. Can you tell us, please?

22 A. He told me when he weighed the crack cocaine,
23 at that time it was, he believed, it was freshly

1 cooked, and that is how he came up with the weight of
2 48 grams.

3 Q. Would that impact the weight?

4 A. Correct, if it was still wet.

5 Q. Meaning what, would it be more or less
6 accurate?

7 A. More.

8 Q. Then we have marijuana?

9 A. Yes.

10 Q. Under there is the number 66; is that
11 accurate?

12 A. Yes.

13 Q. What does the number 66 signify?

14 A. 66 grams.

15 Q. You have heroin, correct?

16 A. Correct.

17 Q. Under heroin you have 17.14; is that accurate?

18 A. Yes.

19 Q. What does that number indicate?

20 A. How many grams of heroin.

21 Q. Turn to page two of State's Exhibit 1. You
22 able to see that?

23 A. Yes.

1 Q. What is the difference from this sheet and the
2 first sheet we just looked at?

3 A. This is the B package, and the difference is
4 heroin was 2.6 grams at the bottom.

5 Q. I referred to it as page two, it is page 1B.
6 Heroin is 2.6?

7 A. Yes.

8 Q. Same, do you take the drugs out and weigh it?

9 A. No.

10 Q. Going off the approximation from the seizing
11 officer, correct?

12 A. Yes.

13 Q. Is it accurate to say you have the same note
14 down at the bottom where it list remarks?

15 A. Yes, I do.

16 Q. This is page two of States's Exhibit 1, do you
17 recognize this document, Corporal?

18 A. I do.

19 Q. What is it?

20 A. It is the submission sheet provided to us from
21 the Medical Examiner's Office.

22 Q. When is this sheet provided to you?

23 A. It was provided to us through e-mail, and it

1 is stored on our computer.

2 Q. So there is a date on this one, right?

3 A. Correct.

4 Q. The date reads 7 October, '13; is that
5 correct?

6 A. Yes.

7 Q. Indicates that is a Monday?

8 A. Yes.

9 Q. Is that the normal date that you go and drop
10 drugs off?

11 A. Yes.

12 Q. Is it normal or abnormal that on October 7,
13 2013, you would have dropped off evidence for five
14 separate cases totaling seven items?

15 A. Normal.

16 Q. Explain that a bit?

17 A. Sometimes, you know, with the volume of cases
18 that we have, whatever I have I do take over to the
19 ME's office. Sometimes it could be 25 pieces,
20 sometimes could be seven or eight pieces.

21 Q. You take drugs over in batches, fair to say?

22 A. Yes.

23 Q. Do you see Nyala Dilip on this form?

1 A. Yes.

2 Q. Same officer?

3 A. Yes.

4 Q. How many items did you drop off for Nyala
5 Dilip?

6 A. Two.

7 Q. There appears to be two signatures on the
8 bottom, you see that?

9 A. Yes.

10 Q. On your left, whose signature is that where it
11 says evidence tech signature?

12 A. That would be mine, Aaron Lamont Lewis.

13 Q. You signed that?

14 A. Yes.

15 Q. Corresponding date reads what, sir?

16 A. 10/7/13.

17 Q. Right where it says ME courier, that is not
18 your signature?

19 A. No.

20 Q. Whose signature is that?

21 A. Aretha Bailey.

22 Q. Who is that?

23 A. The courier for the Medical Examiner's Office.

1 Q. Does that mean -- I should ask you: What does
2 that mean that her signature is on this form?

3 A. She is the lady that I turned the drugs over
4 to at the Medical Examiner's Office.

5 Q. Talk about turning the drugs over. Walk us
6 through the process as to when you walk in the door at
7 the Medical Examiner's Office, how you go about turning
8 drugs over to whoever it is that would sign to receive
9 the drugs?

10 A. Okay. I would walk in. I have to sign the
11 book the time that I get in there. They would notify
12 whatever courier that would come downstairs to come get
13 me to take me up to -- I forget what floor it is. We
14 go up to the office, punch in a code to get into the
15 door and once we are inside the office, we would
16 identify every piece of evidence that is inside the box
17 that I am bringing, that it corresponds with everything
18 that is on the sheet that I am providing.

19 Q. How would you do that?

20 A. Just visibly taking one out, going over it
21 with the courier.

22 Q. You go through each item?

23 A. Yes.

1 Q. Do you open the drug envelopes at that point
2 in time?

3 A. No.

4 Q. How do you verify what is what?

5 A. Case number.

6 Q. You do this in an office?

7 A. Yes.

8 Q. Where is the drug locker in comparison to this
9 office?

10 A. I believe the drug locker is to the left of
11 the office.

12 Q. How do you get into that office?

13 A. Drug locker or office?

14 Q. Office.

15 A. You have to punch a key pad.

16 Q. Did you punch the key pad in?

17 A. No.

18 Q. The OCME employee would?

19 A. Yes.

20 Q. Did you have a code to get into that room?

21 A. No.

22 Q. Once you verified what you were dropping off
23 was accurate by doing what you previously testified to,

1 what step occurs next?

2 A. She would sign the evidence, make a copy of
3 the sheet, make a copy, provide it with me, and when
4 she would safely store the evidence into the drug safe,
5 and if there was any returns for me to take back, she
6 would provide me with the returns.

7 Q. You would watch them do that, put it in the
8 drug safe?

9 A. Yes.

10 Q. Did you have access to the drug safe?

11 A. No.

12 Q. Do you recall, if you do, as to what security
13 measures were in place to get this there?

14 A. No, I do not.

15 Q. Did you ever go in that room without an OCME
16 employee with you, sir?

17 A. No.

18 Q. Did you have an opportunity to review the drug
19 evidence envelopes that you brought to the Office of
20 the Chief Medical Examiner back in October for Dilip
21 Nyala?

22 A. Yes, I was.

23 Q. I would like to show you a series of

1 photographs. I will put on the screen what has been
2 marked without objection as State's Exhibit 5. Do you
3 recognize this photograph?

4 A. Yes, I do.

5 Q. What is it?

6 A. It is a picture of our departmental drug
7 envelope.

8 Q. Who took it?

9 A. Detective Hugh Steffy in my presence.

10 Q. You were there?

11 A. Yes.

12 Q. When did you guys take this photograph?

13 A. 7/1/14, 0900 hours.

14 Q. Did you take this photograph in preparation
15 for today's hearing?

16 A. Yes.

17 Q. On the outside of the envelope, as we see it
18 on State's Exhibit 5, what information is it telling
19 us?

20 A. It tells us division, department, platoon,
21 complaint number, name of defendant, date of birth,
22 address, evidence, witness remarks, investigating
23 officer, who it was found by, date and time where, when

1 it was found, location, if it was field tested positive
2 or negative, arrest date, juvenile or adult, type of
3 drug and the approximate weight.

4 Q. Is that a standard Wilmington Police
5 Department evidence envelope?

6 A. Yes, sir.

7 Q. We do have a defendant's name on this
8 envelope, do we not, sir?

9 A. Yes, sir.

10 Q. What is that name?

11 A. Nyala Dilip.

12 Q. Same name we have been referring to on the
13 previous exhibits, correct?

14 A. Yes.

15 Q. Under evidence, we have a description, do we
16 not?

17 A. Yes.

18 Q. Are you able to read what that description is
19 from this photograph?

20 A. 130 Ziplock bags each containing a blue
21 glassine bag sealed with -- I can't read the -- I
22 believe it says seaweed stamped in black ink, and each
23 containing an off white powdery substance, to wit

1 heroin.

2 Q. Does the number and drug that purports to be
3 on the outside of this envelope, is that consistent
4 with the information you have as to what drugs were
5 seized when Dilip Nyala was arrested in conjunction
6 with this case?

7 A. Yes.

8 Q. Officer was Pfaff?

9 A. Yes.

10 Q. Same Chief Investigative Officer?

11 A. Yes.

12 Q. Approximate weight, you see that?

13 A. Yes.

14 Q. What is that?

15 A. 2.6 grams.

16 Q. Is that consistent with the previous document
17 we showed where you entered the data into your
18 Wilmington Police Department system?

19 A. Yes, sir.

20 Q. Show you State's Exhibit 6. I will represent
21 to you, Corporal, this is the back of the envelope
22 portrayed on State's Exhibit 5. Were you there when
23 this photograph was taken, as well?

1 A. Yes, sir.

2 Q. Same purpose?

3 A. Yes, sir.

4 Q. What of note would you reference with respect
5 to the photograph of the back of the evidence envelope?

6 A. When I retrieved -- when I come in contact
7 with each evidence, there is three stamps that I put on
8 the back of the evidence. It is normally the retrieved
9 from drug locker, or retrieved from the drug safe or
10 the drug office, TOT, to the ME's Office with my
11 initials dates and times when I retrieved it from the
12 Medical Examiner's Office, date and time.

13 Q. First one we see, see me circle it?

14 A. Yes.

15 Q. Is that the first stamp that you referred to?

16 A. Yes.

17 Q. Are those your initials?

18 A. Yes.

19 Q. Then you refer to the second stamp, is that
20 the one in the middle?

21 A. Yes.

22 Q. Are those your initials?

23 A. Yes.

1 Q. Third stamp is a bit blurry. Is that the
2 third stamp you were referring to?

3 A. Yes, sir.

4 Q. We see the tape right under that third stamp?

5 A. Yes.

6 Q. Did you put that tape there?

7 A. No.

8 Q. When you got this evidence back, it had been
9 to a number of different places; is that correct?

10 A. Yes.

11 Q. How about this blue tape on our left?

12 A. I didn't put that there.

13 Q. Wilmington Police Department?

14 A. No.

15 Q. When you inspected this envelope portrayed on
16 State's Exhibit 5 and 6, prior to dropping it off at
17 the Medical Examiner's office, did it contain any
18 imperfections or evidence of tampering?

19 A. No.

20 Q. If it did, would you have noted it?

21 A. Yes.

22 Q. I will put on the screen State's Exhibit 7.

23 Can you tell us what that is?

1 A. That is the contents of the bag that was
2 retrieved from NMS.

3 Q. Are there blue baggies in there?

4 A. Yes.

5 Q. Described on the exterior of the envelope,
6 sir?

7 A. Yes.

8 Q. State's Exhibit 8, can you tell us what we are
9 looking at here?

10 A. Again, Wilmington Police Department drug
11 envelope.

12 Q. Only additional question I will ask you for
13 State's Exhibit 8, we have a different description
14 where it lists evidence; is that correct?

15 A. Yes, it does.

16 Q. Please tell us what the description is under
17 evidence on State's 8?

18 A. 857 small, clear Ziplock bags containing a
19 blue glassine bag stamped seaweed, containing an
20 off-white powdery substance. One clear bag sandwich
21 bag knotted, all in pieces of foil containing a white
22 chunky substance. One clear plastic freezer Ziplock
23 bag. One clear sandwich bag knotted off containing a

1 green, leafy plant-like substance.

2 Q. On the bottom right-hand corner under
3 approximate weight, there are approximate weights
4 listed, correct?

5 A. Yes.

6 Q. Do those approximate weights listed match up
7 with the weights that you documented in Wilmington
8 Police Department data base?

9 A. Yes.

10 Q. We see acronyms next to the 48, that stands
11 for what, sir?

12 A. Crack.

13 Q. Next to the 17.14, that stands for what?

14 A. Heroin.

15 Q. Next to the 66, that stands for what?

16 A. Marijuana.

17 Q. Show you State's Exhibit 9, present to you
18 this is the back of the envelope portrayed on State's
19 Exhibit 8.

20 A. Yes.

21 Q. Are they the same stamps you referred to
22 previously?

23 A. Yes.

1 Q. With your initials again, sir?

2 A. Yes, sir.

3 Q. Any imperfections or evidence of tampering
4 when you dropped that off at the Office of the Chief
5 Medical Examiner?

6 A. No.

7 Q. Show you State's Exhibit 10. Tell us what we
8 are looking at here?

9 A. That is the package for NMS, once Detective
10 Steffy and I opened it up to take photographs for this
11 case.

12 Q. Was the taping and packaging of the two
13 evidence envelopes that we just viewed, packaged
14 normally consistent with the seizing officer, or was it
15 abnormal as to raise suspicion?

16 A. Normal.

17 Q. You confirmed that, sir?

18 A. Yes.

19 Q. I will put on the screen page eight of State's
20 Exhibit 1. Can you tell us what this document is?

21 A. This is the evidence return sheet I received
22 from Troop 2 when I picked up the drug evidence.

23 Q. We see Nyala's name on there twice, correct?

1 A. Yes.

2 Q. For the two evidence envelopes?

3 A. Correct.

4 Q. On the bottom, whose signature is on the
5 right-hand side where it lists received by?

6 A. That would be mine.

7 Q. Signature on the left where it says
8 relinquished by?

9 A. Sergeant McCarthy.

10 Q. We have a date above Sergeant McCarthy's
11 signature; what is that date?

12 A. 5/29/14.

13 Q. This is a return work sheet for when the drug
14 evidence comes back into your custody; is that true?

15 A. Yes, sir.

16 MR. GRUBB: May I have one moment, please,
17 Your Honor.

18 THE COURT: You may.

19 (A brief pause.)

20 MR. GRUBB: No further questions for Corporal
21 Lewis, Your Honor.

22 THE COURT: Cross.

23 CROSS EXAMINATION

1 BY MR. COLLINS:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Let me just clear up a couple things about
5 your testimony before I ask you questions I had
6 planned.

7 Now, you are not an expert about drugs, crack
8 cocaine, what happens to crack cocaine when it cooks,
9 or the weight of it, or anything like that?

10 A. No, I am not.

11 Q. You don't have any specialized training or
12 education with respect to the identification of drugs,
13 right?

14 A. Specialize training, no.

15 Q. So the information you are getting with
16 respect to things like weight, what the substance is
17 suspected to be, et cetera, is coming from the seizing
18 officers in each particular case, right?

19 A. Correct.

20 Q. That is true of this case, as well?

21 A. Yes.

22 Q. So you started your role, you described in
23 June of 2013, right?

1 A. Yes, sir.

2 Q. So you can't testify to any evidence going
3 back and forth or what happened prior to that date; is
4 that fair to say?

5 A. Correct.

6 Q. Who was your predecessor, do you know?

7 A. Vinny DiSabatino.

8 Q. I'm going to put up some pages from the same
9 State's Exhibit 1. For the record, everything I am
10 referring to comes from State Exhibit 1.

11 Corporal, is this familiar to you, it is page
12 1A of Exhibit 1. I have a question about this times ME
13 1300, that is military talk for one o'clock, right?

14 A. Correct.

15 Q. That reflects the appointment that you
16 normally have on Mondays at 1 o'clock at the OCME, fair
17 to say?

18 A. Correct.

19 Q. You presumably took it out of your safe prior
20 to that, right?

21 A. Yes, to transport over there.

22 Q. That is not reflected anywhere on the form?

23 A. No.

1 Q. Is it fair to say you took it out of the safe
2 and then didn't do much in between, just took it right
3 over, though?

4 A. Correct.

5 Q. That is your normal SOP?

6 A. Yes, sir.

7 Q. Moving on to page two of Exhibit 1 -- if I
8 could make a record, Your Honor. The defendant's name
9 in this case is first name Dilip, last name Nyala.
10 Some of the documents have it the right way, some have
11 it backwards. That is just for record purposes. That
12 is the correct name.

13 THE COURT: Thank you.

14 BY MR. COLLINS:

15 Q. Okay.

16 You have testified that this is a form that
17 you use to track the evidence that you bring over, and
18 I am asking you about the second line where you brought
19 two items over. There is a number written in which is
20 kind of cutoff, it is right here. It says 163
21 something, I don't know what. What does that number
22 mean?

23 A. Normally, part of my log-in system with the

1 ME's Office I would have to log all this information on
2 one of their data bases through the computer, and once
3 I finish logging each piece of evidence, it would give
4 me a number back, which I would log onto this sheet so
5 they know which piece pertains to what number.

6 Q. You are making log entries on the OCME
7 computer?

8 A. No, it is on my computer, but it goes through
9 their data base.

10 Q. It transmits somehow electronically to their
11 data base?

12 A. Yes.

13 Q. You are saying there is some sort of
14 connection between something that you keep at the
15 Wilmington Police Department, and the OCME data base,
16 am I getting that right?

17 A. Yes.

18 Q. This number, how many digits is the number?

19 A. I believe it would be a four-digit number.
20 You see, look on the envelope, it has it on there 1630.
21 Right next to Nyala Dilip.

22 Q. That is an identifier shared by OCME and WPD,
23 right?

1 A. I think all of the departments have access to
2 it.

3 Q. Next I want to ask you about that signature at
4 the bottom. Now, your signature means to you, you are
5 signing to say I handed this evidence to Aretha Bailey
6 at 1 o'clock in the afternoon on October 7, 2013?

7 A. Correct.

8 Q. Is that what you are signing?

9 A. Yes.

10 Q. That is true, right. You handed the evidence
11 over to Aretha Bailey?

12 A. Yes, I did.

13 Q. At any point, did you take evidence back and
14 hand it over to another OCME employee later in that
15 day?

16 A. No.

17 Q. Fair to say your sole intersection with OCME
18 employees that particular day was with Aretha Bailey?

19 A. Yes.

20 Q. And is it my understanding that it is Aretha
21 Bailey who took you through the various check points to
22 get you to the point where the drug evidence was put
23 away?

1 A. Yes.

2 Q. I know that you already testified about it,
3 can you briefly repeat what processes you went through.
4 You first have to go in the main door of OCME, that is
5 not locked, right?

6 A. Yes, it is. I have to buzz to get in.

7 Q. Buzzed in by whom, do you know?

8 A. I don't know.

9 Q. So then you meet with Aretha Bailey?

10 A. No, I sign in a book, then the receptionist
11 calls, lets them know that I am here.

12 Q. Then, by the way, I should ask; you don't
13 really remember this particular day, do you?

14 A. No, I do not.

15 Q. You are testifying from these documents and
16 your normal SOP, right?

17 A. Yes.

18 Q. So Aretha Bailey comes out to greet you,
19 right?

20 A. Um-hmm.

21 Q. It was always Aretha Bailey?

22 A. No, it was not.

23 Q. Now, was it frequently Aretha Bailey?

1 A. No, it was not. It would vary among about
2 three of them.

3 Q. Can you tell me, if you recall, who those
4 three individuals are?

5 A. Aretha Bailey, James Daneshgar and Kelly, I
6 don't know her last name.

7 Q. So what happened after Aretha Bailey came and
8 greeted you?

9 A. She would take me up to the evidence room.

10 Q. She needs some kind of way to get in the
11 evidence room, right?

12 A. Yes.

13 Q. That I believe your testimony was that it was
14 a key pad?

15 A. Yes, she would punch in a key pad.

16 Q. Then after the evidence room, there was a
17 further check point, right?

18 A. No, once you get right in evidence, you are
19 in -- I stay in that office area where we go in.

20 Q. After you do the handing over of evidence, you
21 are basically done at that point, right?

22 A. Correct.

23 Q. You take your empty container and go back to

1 the police station, you go, right?

2 A. Right.

3 Q. So this term at the bottom of the form ME
4 courier is not really accurate. She does not go to get
5 it, you brought it to her, correct?

6 A. Correct.

7 Q. And, again, this is not the only time that
8 Aretha Bailey has served as this role as accepting the
9 evidence from you, right?

10 A. Correct.

11 Q. Since the time you started last June, I think
12 last June, until January 2014, could you estimate how
13 many times it was Aretha Bailey versus any of the other
14 employees?

15 A. No, I could not.

16 Q. More than ten?

17 A. Yes.

18 Q. More than 20?

19 A. I couldn't tell you.

20 Q. We are going to get into an area where I am
21 going to show you some forms that are not your forms,
22 some paperwork that I don't believe you generated. I'm
23 going to ask you some questions about them. To the extent

1 you know, you can answer. If you don't know, just let
2 me know that you don't.

3 A. Okay.

4 Q. I will refer to page three of Exhibit 1. This
5 is a document entitled submission receipt. It's a
6 forensic sciences laboratory document from the Office
7 of the Chief Medical Examiner, and it is stating, as
8 you can see, looks like Wilmington Police Department's
9 complaint numbers are identified and you're identified
10 as submitter of evidence. You see that there?

11 A. Yes, sir.

12 Q. Next line says investigated by Ham. Who is
13 Ham?

14 A. One of our officers.

15 Q. I thought Pfaff was the detective?

16 A. He is.

17 Q. You have any idea why it says Ham?

18 A. No idea.

19 Q. We have our two containers, I won't make you
20 repeat yourself, container A and B. My question has to
21 do with this submitting officer and received by. It
22 indicates that at 3:36 in the afternoon, or
23 two-and-a-half hours later, you submitted evidence to

1 James Daneshgar. Do you agree with the information
2 contained on this document?

3 A. I do not.

4 Q. So you are sticking with what is on the WPD
5 form, which is you gave it to Aretha Bailey at
6 1 o'clock?

7 A. Correct.

8 Q. Have you ever seen this form before?

9 A. Yes, they provided me with these sheets. If I
10 bring a batch of evidence one week, the next week I
11 come, they provide me with the week prior these sheets.

12 Q. You get them the following week?

13 A. Yes.

14 Q. You ever sign them?

15 A. No, you don't have to sign them.

16 Q. Even though it says sign right on it?

17 A. Never did.

18 Q. So it's a receipt, which makes sense. You get
19 it afterwards. You don't agree with what it says on
20 there, right?

21 A. Correct.

22 Q. Any idea where the time 3:36 came from?

23 A. No, I don't.

1 Q. You were long gone by then?

2 A. Long gone.

3 Q. I am going to ask you, next question I am
4 going to skip ahead to page five. Again, this is a
5 chain of custody report identified as FE, Frank Echo,
6 2013-08741, which I will represent to you also pertains
7 to this case. I am not saying this is a Wilmington
8 Police Department form, or it's your responsibility. I
9 just want to ask you some questions about it.

10 I want to ask you about the heading called
11 Transfers. You can see there it says, submitted by
12 Aaron Lewis, received by James Daneshgar 3:36 in the
13 afternoon, and 54 seconds. Method; hand-to-hand
14 transfer. Goes on to say that Mr. -- I think
15 Daneshgar, I apologize, Daneshgar placed it somewhere
16 after that.

17 For purposes of my question; do you agree with
18 this statement submitted by Lewis, Aaron by
19 hand-to-hand transfer to James Daneshgar at 3:36 in the
20 afternoon?

21 A. No, I do not.

22 Q. Have you ever seen this form before?

23 A. No, I have not.

1 Q. I am going to loop you back to page four, so
2 one page back, if you will. You are mentioned again in
3 another OCME form, this is called a submission receipt,
4 and as can you see, it appears to -- take a second to
5 look at it. Does it appear to describe the same
6 evidence we have been talking about this whole time?

7 A. Appears, yes.

8 Q. Container A, B, Dilip Nyala?

9 A. Yes.

10 Q. It appears to be saying on March 4, 2014, at
11 3:21 in the afternoon, you brought James Daneshgar the
12 same evidence again. Would you agree with me that is a
13 fair interpretation of what this paperwork says?

14 A. Yes, it does.

15 Q. And did you do that?

16 A. No.

17 Q. Have you ever seen this submission receipt
18 before?

19 A. I don't think so.

20 Q. I appreciate that you work a lot of cases, not
21 going remember every single thing. To your
22 recollection, this is not one of the ones that you got
23 back the following week, right?

1 A. I don't believe so.

2 THE COURT: That has the name of Jill
3 Kotowski.

4 MR. COLLINS: Thank you, Your Honor. I
5 appreciate the suggestion.

6 BY MR. COLLINS:

7 Q. There is different people listed. It has a
8 submitted by Jill Kotowski even though it says
9 submitted by you. Do you know who Jill Kotowski is?

10 A. I believe she works with New Castle County
11 Police.

12 Q. Just from personal knowledge, you know that?

13 A. Yes.

14 Q. That was a bad question. What I meant was;
15 are you familiar with her working on this case at all?

16 A. No.

17 Q. And who is Blasten, under the investigated by?

18 A. I have no idea.

19 MR. COLLINS: May I have a moment, please.

20 THE COURT: Yes.

21 (Brief pause.)

22 BY MR. COLLINS:

23 Q. Without -- I don't think I need to show you

1 photographs, but if you need to I will show them. I
2 have some tape questions.

3 What color is Wilmington Police Department
4 evidence tape that seals these envelopes?

5 A. It is clear tape.

6 Q. Clear tape?

7 A. Um-hmm.

8 Q. For you guys, and you testified about the
9 other things that were done to the envelope after it
10 left your hands. Do you know what color tape the OCME
11 uses to reseal evidence after it's been opened by them?

12 A. It's usually white.

13 Q. Are there any other colors that it ever is?

14 A. No.

15 Q. You would know because you pick this stuff
16 back up?

17 A. Correct.

18 Q. You have clear tape for the police, white tape
19 for OCME. This case it went to a different place to be
20 tested, as you mentioned. Do you recall what color
21 tape they used?

22 A. No, I do not.

23 Q. I think Mr. Grubb asked you about blue tape?

1 A. Yes.

2 Q. Was that blue tape on this when you let
3 evidence go to Aretha Bailey?

4 A. No, it was not.

5 MR. COLLINS: That's all I have. Thank you.

6 REDIRECT EXAMINATION

7 BY MR. GRUBB:

8 Q. Corporal, you testified about page two of
9 State's Exhibit 1, it was referred to as a Wilmington
10 Police Department sheet. It is not a Wilmington Police
11 Department sheet, right?

12 A. No.

13 Q. And the submission receipt that you testified
14 about, you don't sign them you said?

15 A. Correct.

16 Q. You don't create them; is that right?

17 A. Correct.

18 Q. That's all OCME procedures?

19 A. Yes, sir.

20 MR. GRUBB: Thank you. No further questions.

21 THE COURT: Officer, for page three and four
22 which is the submission receipts, do you get them as a
23 matter of course?

1 THE WITNESS: Yes, sir. They normally provide
2 them to me about the week after I turn the drugs over
3 to them.

4 THE COURT: What do you do with them?

5 THE WITNESS: I store them in a pile.

6 THE COURT: Are they put in a case file of
7 that particular defendant, or just in a general file?

8 THE WITNESS: General file.

9 THE COURT: What is the purpose of you
10 receiving them; do you know?

11 THE WITNESS: I really don't know. They just
12 give them to me.

13 THE COURT: Does that cause counsel --

14 MR. GRUBB: No, Your Honor.

15 MR. COLLINS: No, thank you, Your Honor.

16 THE COURT: You may step down, Officer.

17 We will take a short break, see if we can
18 solve the electronic issue.

19 (A short recess was taken.)

20 THE COURT: Call your next witness.

21 MR. GRUBB: Sergeant Scott McCarthy.

22 SCOTT MCCARTHY,

23 having been first called by the State was sworn on

1 oath, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. GRUBB:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. By whom are you employed?

7 A. Delaware State Police.

8 Q. How long have you been with the Delaware State
9 Police?

10 A. Little -- about 25-and-a-half years.

11 Q. You are retiring soon, correct?

12 A. Yes, sir.

13 Q. What are your current duties with the Delaware
14 State Police?

15 A. Chief evidence custodian for New Castle County
16 troops. I maintain Troop 1, 6, 9 and Troop 2.

17 Q. Describe what it means to be the chief
18 evidence custodian and overseeing those drug lockers?

19 A. Troop 2 is a little different. I receive that
20 locker, and beneath me I have three other detectives
21 that manage all incoming evidence, logging and storing
22 at that facility. Troop 1, 6 and 9, I am the only
23 evidence custodian at those locations. I receive

1 evidence in through the temporary evidence locker that
2 is logged in by patrol officers or detectives. I
3 receive that evidence in, bar code it, categorize it,
4 enter it into the data base, file it appropriately
5 within that locker.

6 Q. That locker that you just described, who has
7 access to it?

8 A. It's myself, at Troop 1, 6, 9, criminal
9 lieutenant and troop commander. At Troop 2, myself,
10 three detectives that work with me, Detective Lanno,
11 Chapman, and Detective Kleckner, troop commander and
12 criminal lieutenant.

13 Q. Evidence detectives?

14 A. Yes.

15 Q. How are the lockers secured?

16 A. Key cards, secured and locked with inside the
17 facility and video surveillance.

18 Q. Are different key cards assigned to each
19 individual officer that you just testified to that has
20 access to it?

21 A. Yes.

22 Q. Is the card unique to the officer, or is the
23 card unique to the locker?

1 A. It is unique to the officer. Each officer has
2 a key card, similar key cards, but your key card can be
3 programmed to give you certain access that other
4 officers don't have.

5 Q. Is there a process in place when drug evidence
6 is taken out of one of those lockers for whatever
7 purpose?

8 A. It's logged out of our data base.

9 Q. How do you do that?

10 A. We would query evidence, find out where it is
11 located, retrieve it from the control center, print
12 out, type in the computer it is being logged out for
13 whatever reason, for court purposes, transport to ME's
14 office for testing. When we turn it over to the
15 investigating officer to do the transport.

16 Q. Were you the one who would transport the drug
17 evidence envelopes to the Medical Examiner's Office?

18 A. Yes, I was.

19 Q. Did you have a routine schedule that you
20 adhered to when doing that?

21 A. I did. My schedule times were usually every
22 Tuesday at 1 o'clock I would be up there, every
23 Thursday at 11. I had standing appointments.

1 Q. Would you take batches of evidence over, or
2 would you do individualized cases one by one?

3 A. Batches. Usually I combined, take evidence
4 from two different troops on one day, other two troops
5 the next.

6 Q. Did you have a procedure in place where you
7 would check the evidence envelopes for imperfections or
8 evidence of tampering?

9 A. Just a routine practice.

10 Q. Could you describe that practice for us,
11 please?

12 A. Just as you are removing evidence preparing
13 for transfer, do a visual examination, make sure that
14 the evidence envelope was properly signed and secured,
15 nothing looks suspicious or out of the ordinary.

16 Q. Do you look for cuts or --

17 A. Yes.

18 Q. Slices?

19 A. If I saw that, that would be a red flag.

20 Q. Would you open the drug envelopes yourself?

21 A. No, I would not.

22 Q. Verify the contents?

23 A. No.

1 Q. Why wouldn't you do that?

2 A. Just transport it only. We don't want to get
3 involved in the integrity of the evidence. That was
4 something that the officer who seized the evidence
5 states is in the envelope. As long as the evidence
6 envelope is fine, I transport it and TOT it to the
7 Medical Examiner's Office.

8 Q. Walk us through the procedure when you get to
9 the Medical Examiner's Office with a batch of drug
10 evidence envelopes?

11 A. What I do is I have a pre-inventory. I have a
12 sheet that has every piece of evidence I have,
13 inventories in my box of evidence going up there. I go
14 up there, I go to the front desk. They go up to the
15 lab evidence locker area and one of their people would
16 come down, usually J Daneshgar would come down get me.

17 We go up. I would turn evidence over to him.
18 He would double check to make sure everything on my
19 list matched everything that was in the box. If he was
20 satisfied that the evidence was all correct, he would
21 sign off on it, I would sign off it. He would make a
22 copy. He would keep a receipt. I would retain a copy
23 for my records.

1 After that process was completed, if he had
2 evidence that needs to come back to the troops, he
3 would go into the locker, bring that box out, provide
4 me with a property receipt. I, in turn, would
5 inventory that box to make sure, corresponding with the
6 paper receipt that he provided me, signed off on it.
7 Then I take those drugs back and re-enter those back
8 into our evidence lockers at the appropriate troop.

9 Q. You said once J Daneshgar would get you, you
10 would go up. Where would you go?

11 A. Up on the third floor. It is, you go in
12 almost, like, an office suite area. They would enter a
13 key pad, allow you access into a small office area.
14 Then off that office you had an evidence locker,
15 another room that was connected to that. We would
16 usually just stay right in that front office, do our
17 transaction, get what he needed, bring it back out to
18 me.

19 Q. Would J Daneshgar or whatever OCME employee
20 was there with you, would they open the drug envelope
21 to verify its contents?

22 A. No.

23 Q. When you say verify the submissions, you mean

1 the exterior of the envelope and corresponding case
2 number?

3 A. That's all that was confirmed.

4 Q. Did you have the key code to get into that
5 office area that you described?

6 A. No.

7 Q. Did you have the key code to get into the drug
8 vault that is off to the side of the office?

9 A. No, I do not.

10 Q. I will put on the screen page two of State's
11 Exhibit 3. Is this, generally speaking, the type of
12 form you referred to --

13 A. Yes.

14 Q. -- when you would bring the list of cases that
15 you were dropping off at the Medical Examiner's Office?

16 A. Yes, that's generated by myself.

17 Q. On this evidence submission, and return
18 worksheet, up top it is checked submitted evidence,
19 right?

20 A. Yes.

21 Q. Does that mean this is stuff you are dropping
22 off?

23 A. Yes.

1 Q. Within the body of our list, do you see the
2 name Michael Irwin?

3 A. Yes, on four different occasions.

4 Q. Corresponding officer with Michael Irwin is
5 who?

6 A. Detective Russo.

7 Q. Then on the last column here we have a number
8 of items. You see that, sir?

9 A. Yes.

10 Q. Numbers are in the six thousands?

11 A. Um-hmm.

12 Q. What does that number mean?

13 A. It is my control number. That is my bar code
14 number that I identify that specific piece of evidence
15 with. When I originally take that piece of evidence
16 from our temporary locker and enter it into my
17 permanent locker, I assign it a bar code number so I
18 can track it.

19 So whenever I transfer that up to the Medical
20 Examiner Office, I put that number in there so it's
21 another way for me to track a piece of evidence. That
22 is my specific bar code number that I place on the
23 evidence envelope.

1 Q. That is a bar code you referenced earlier when
2 you were talking about taking evidence out of the
3 Delaware State Police drug locker?

4 A. Yes. That is just the last four digits of the
5 bar code.

6 Q. Understood. Bottom here, on your left-hand
7 side where it reads submitting/receiving officer there
8 is a signature, is there not?

9 A. Yes.

10 Q. Whose signature is that?

11 A. That is my signature.

12 Q. Date up top, correct?

13 A. Yes.

14 Q. What is the date?

15 A. September 24, 2013.

16 Q. To the right, it reads OCME forensic evidence
17 specialist, slash designee, correct?

18 A. Yes.

19 Q. Do you recognize the signature there?

20 A. Yes, that is Kelly.

21 Q. Do you know Kelly's last name?

22 A. It slips me right at this moment, sorry.

23 Q. Kelly works at the Medical Examiner's Office?

1 A. Yes.

2 Q. So does her signature there mean that Kelly
3 was the one who would walk you through the process that
4 you previously testified to?

5 A. Yes.

6 Q. Date handwritten next to Kelly's signature,
7 correct?

8 A. Yes.

9 Q. Same date, September 24th, 2013?

10 A. Yes.

11 Q. Corresponding time of 1:10?

12 A. Yes, sir.

13 THE COURT: Is that the document that you
14 would have filled out prior to getting to the Medical
15 Examiner's Office even though it is a Medical Examiner
16 Office form?

17 THE WITNESS: Yes, Your Honor. They provide
18 us with that form because that is how you they want
19 evidence submitted. It is a fill-in form or ourselves.

20 BY MR. GRUBB:

21 Q. You bring that with you when you drop evidence
22 off?

23 A. Yes.

1 Q. On this date September 24, 2013, you bring
2 this with you and drug envelopes?

3 A. Yes, I create that form.

4 Q. You sign it, they maintain a copy, you take a
5 copy back with you?

6 A. Yes. I believe Georgi; is that correct?

7 Q. Correct.

8 A. Sorry to interrupt.

9 Q. With respect to Michael Irwin, you later
10 dropped off additional drug evidence envelopes to the
11 Office of the Chief Medical Examiner, did you not?

12 A. Yes.

13 Q. I will put on the screen State's Exhibit 2,
14 refer you to page two. Do we see Michael Irwin's name
15 here?

16 A. Yes, first entry.

17 Q. Same detective, Russo?

18 A. Yes, sir.

19 Q. At the bottom, your signature again, sir?

20 A. Yes.

21 Q. On the left above it we have a different date?

22 A. Correct.

23 Q. November 5, 2013?

1 A. Yes.

2 Q. Corresponding time of 1 o'clock?

3 A. Yes.

4 Q. Why did you drop off an additional evidence
5 envelope on November 5th, when you took what appeared
6 to be multiple items back in late September?

7 A. What happened in that instance, when I
8 initially received evidence for this case, everything
9 was slated to go to the Medical Examiner's Office.
10 However, this piece, in particular, the investigating
11 officer requested that it be processed for
12 fingerprints. That piece of evidence had to be
13 transported to Troop 2.

14 I put that in our processing area for
15 Detective Lanno to process it. Once it was -- so in
16 that time, I had sent the prior evidence up to be
17 examined. This was being processed for latent prints.
18 Once that was complete, I brought it up to Troop 6,
19 logged it back into my system. On my next run, I
20 included that in my next batch of evidence going out to
21 be tested for analysis.

22 Q. Is that type of procedure common when the
23 officers are requesting processing of certain evidence?

1 A. Yes.

2 Q. I would like to refer you to page one of the
3 same State's Exhibit 2. Do you recognize this document?

4 A. Yes, I do.

5 Q. Can you tell us what it is, please?

6 A. It is part of our evidence case management
7 program. It will show the entries, when they are
8 originally entered into the computer system for the
9 specific case, and drug evidence, and then it tracks
10 every transaction that takes place. If it is logged
11 out for a specific reason, give the details off to the
12 right.

13 As you can see on 9/20, this piece of evidence
14 we are talking about was logged in at 2:44, then on
15 9/23, logged out. You can see the notation transport
16 to Troop 2, reference processing for latents. It was
17 then returned back, returned back on the 25th, looks
18 like 25th of October 2013, returned back to the locker.

19 Then I transported it on my next run 11/5 to
20 the Medical Examiner's Office.

21 Q. That date we saw on page two, November 5th?

22 A. Yes, it is.

23 Q. This description up top where it says items

1 and then description. You see that?

2 A. Yes, I do.

3 Q. We have listed, tell me if this is accurate
4 25.3 G, for Grams, of MDMA slash ecstasy?

5 A. Yes.

6 Q. Would that be drugs that were seized and
7 purportedly put into that drug evidence envelope?

8 A. Yes.

9 Q. You didn't do that yourself?

10 A. No, I did not.

11 Q. You don't verify that?

12 A. No, I don't.

13 Q. Not part of your job?

14 A. No.

15 Q. Underneath we have money, then we have
16 marijuana blunt; is that accurate?

17 A. Correct.

18 Q. Then we have under that, one clear Ziplock
19 bag?

20 A. Yes.

21 Q. Described as miscellaneous?

22 A. Yes.

23 Q. I will go back to State's Exhibit 3, from the

1 September submission that you made. Here is page one
2 of State's Exhibit 3. What are we looking at,
3 Sergeant?

4 A. Again, it is an evidence case management
5 system case report.

6 Q. Once again, we didn't say it, but the Exhibit
7 showed, we see the name Michael Irwin?

8 A. Yes.

9 Q. You have a couple different complaint numbers
10 associated with Michael Irwin; is that fair?

11 A. Correct.

12 Q. Any reason that would be?

13 A. I believe one was as a result of a search
14 warrant that took place at a residence, the other one
15 was the result of a car pursuit, which happened two
16 different times at two different locations.

17 Q. At the bottom where you previously testified
18 under what is entitled Chain of Custody, you have
19 September 24, 2013, transported to Medical Examiner's
20 Office for analysis, correct?

21 A. That's correct.

22 Q. Is that the same date that we saw on page two
23 of the same Exhibit?

1 A. It is.

2 Q. At the top we have description of drugs; is
3 that accurate, sir?

4 A. Yes.

5 Q. So you have listed up top marijuana, right?

6 A. Yes.

7 Q. Under that we have 2.3 grams of MDMA/ecstasy?

8 A. Yes.

9 Q. Under that some paraphernalia?

10 A. Yes.

11 Q. Under that, some additional paraphernalia,
12 right?

13 A. Yes.

14 Q. Do you put this information into this case
15 management system for Troop 2?

16 A. Yes, I basically put -- notate what is on the
17 face of the envelope similar to that, classify the
18 evidence.

19 Q. Now, because Michael Irwin had multiple drug
20 evidence envelopes associated with multiple complaint
21 numbers, I will show you State's Exhibit 4. Page one.
22 What are we looking at?

23 A. Same thing. It is a case management record

1 from our evidence program.

2 Q. Still Michael Irwin?

3 A. Yes.

4 Q. We have a different description?

5 A. Yes.

6 Q. Looking at 25.3 grams of MDMA/ecstasy?

7 A. Yes.

8 Q. Appears to be the same sheet, this may be our
9 error, I apologize, it appears to be the same sheet
10 from State's Exhibit 2. Was that because it is the
11 same complaint number?

12 A. That is exactly right. I think the reason
13 this has been duplicated, you have two different pieces
14 of evidence for the same case that were entered,
15 transported to ME's Office on two different times.
16 Same case, two different dates. The evidence was
17 split.

18 Q. Did have you an opportunity to photograph the
19 drug evidence envelopes associated with Michael Irwin's
20 cases?

21 A. I did.

22 Q. I would like to put on the screen a series of
23 photographs. State's Exhibit 11 is now on the screen.

1 Are you familiar with this photograph, Sergeant?

2 A. Yes, I am.

3 Q. This series of photos, who took them?

4 A. I did.

5 Q. For what purpose?

6 A. To represent the evidence envelope as it
7 appeared.

8 Q. Are you able to see the specific markings on
9 this photograph?

10 A. Yes.

11 Q. And the subject's name. Are we able to make
12 that out?

13 A. Yes.

14 Q. What is the subject's name?

15 A. Michael Irwin.

16 Q. What is the description of evidence?

17 A. Two small marijuana rolled cigars, commonly
18 referred to as blunts. Total weight .8 grams.

19 Q. That would correspond with the marijuana
20 blunts noted on your case management sheet?

21 A. Yes, sir.

22 Q. You see a bunch of stickers on there. Did you
23 put any of those stickers on there prior to taking the

1 drugs to the Medical Examiner's Office?

2 A. When you earlier asked me about the numbers at
3 the far right-hand corner, 6000 series numbers, that is
4 the bar code 06 followed by multiple zeros, ended in
5 6997. That is the bar code --

6 Q. That right there?

7 A. Correct. That is the control number that I
8 assign. That is how that evidence is logged into my
9 permanent locker. That is how I track this evidence.

10 Q. You put that on there?

11 A. I did.

12 Q. That FE 13 number on our left, did you put
13 that on there?

14 A. No, that is applied by the Medical Examiner's
15 Office.

16 Q. On the right, this last sticker, did you put
17 that on?

18 A. No, that was applied by someone from the NMS
19 lab.

20 Q. On this photograph we see blue tape,
21 basically, at all ends of this drug evidence envelope?

22 A. Yes.

23 Q. Do you recall, is the blue tape consistent

1 with when you dropped it off at the Medical Examiner's
2 Office?

3 A. Yes, that is Delaware State Police evidence
4 tape.

5 Q. Was the Delaware State Police evidence tape
6 the same tape that when we talked about the audit team,
7 that the audit team uses when resealing the evidence
8 envelopes?

9 A. Correct.

10 Q. Show you State's 12, which is the back of that
11 evidence envelope. You see that, sir?

12 A. Yes, I do.

13 Q. We have some notations on the back of that.
14 You see that?

15 A. Yes.

16 Q. Marijuana, .8 grams?

17 A. Yes.

18 Q. Then some sort of signature that the tape is
19 on over the bottom, right?

20 A. Yes.

21 Q. You recognize that?

22 A. I do.

23 Q. What is that?

1 A. The tape in the middle of envelope, two pieces
2 come down across it that would have been applied by the
3 investigating officer when he initially seized and
4 sealed the envelope. He then made that notation
5 himself of the marijuana, point eight grams. The tape
6 at the bottom was done during the audit. So whoever
7 conducted the audit on this envelope would have cut the
8 envelope open, analyzed the contents, replaced the
9 contents, sealed it up, dated and initialed the
10 evidence tape they placed on the envelope.

11 Q. One in the middle and the two diagonal, those
12 are from your Chief Investigative Officer in this case,
13 Russo?

14 A. Correct.

15 Q. Is that standard protocol to tape that area
16 when submitting evidence, as far as Officer Russo is
17 concerned?

18 A. That is the way -- all officers may do it a
19 little different. I confirmed with him that is the
20 typical way he normally does this.

21 Q. Any abnormality from that?

22 A. No.

23 Q. The bottom piece you said that is from the

1 audit team that we will get to in a moment.

2 A. Yes.

3 Q. State's Exhibit 13, another evidence envelope
4 for Michael Irwin, correct?

5 A. Yes.

6 Q. We have the same information on there. Would
7 your answers be the same with respect to the stickers
8 that are on this Exhibit?

9 A. That's -- yes. Now can I see the ME sticker,
10 correct.

11 Q. I will show you -- evidence indicated on this
12 Exhibit is what, sir?

13 A. Sorry, repeat the question.

14 Q. The type of evidence that indicated on this
15 photograph reads what?

16 A. MDMA/ecstasy, 25.3 grams.

17 Q. That is the same description, quantity as
18 noted on your evidence case management system form from
19 Troop 2, correct?

20 A. Yes, sir.

21 Q. State's 14, back of that evidence envelope.
22 Do you recognize that?

23 A. Yes.

1 Q. You took this photograph, as well, right?

2 A. Yes, I did.

3 Q. Would your answers be the same with respect to
4 how the evidence tape got there in the middle and the
5 two sides?

6 A. That's correct.

7 Q. How about the top?

8 A. The top is going to be different on this one.
9 As I mentioned earlier, this is the specific piece of
10 evidence that I transported to Troop 2 to have the
11 contents processed for latent fingerprints. That top
12 portion where the evidence envelope was opened and
13 re-taped is where Detective Lanno would have gained
14 access to the evidence, performed his test, resealed
15 it, initialed it, and I would have returned it back to
16 my drug locker at Troop 6, then transported it up.
17 Bottom part is from the audit.

18 Q. State's Exhibit 15. Can you see that okay?

19 A. Correct.

20 Q. That's another envelope from Michael Irwin?

21 A. Yes, sir.

22 Q. Description just reads marijuana, right?

23 A. Correct.

1 Q. Any reason there wouldn't be weight associated
2 with it on the front of this one?

3 A. It's up to each individual officer how they
4 package or identify contents.

5 Q. I will show you State's Exhibit 16, the back
6 of that envelope?

7 A. Yes.

8 Q. Is the weight noted there?

9 A. It is. It States 30.9 grams of marijuana.

10 Q. Marijuana is notated on your evidence case
11 management system form from State's Exhibit 3 with no
12 specific weight, right?

13 A. Yes.

14 Q. Shown on the front of the envelope?

15 A. Whatever was stated on the front of the
16 envelope.

17 Q. State's Exhibit 17, is that another Michael
18 Irwin envelope?

19 A. Correct.

20 Q. Looking at Russo again?

21 A. Yes.

22 Q. 2.3 grams of MDMA/ecstasy, correct?

23 A. Correct.

1 Q. State's Exhibit 18, the back of that envelope,
2 is that consistent with your previous description of
3 how and why evidence tape gets on there?

4 A. Yes, it is.

5 Q. 2.3 grams of ecstasy. Again, we are talking
6 about State's Exhibit 3, page one, that is what is
7 listed on there, correct?

8 A. Correct.

9 Q. Are all items as described in the photographs
10 accounted for in your Troop 2 evidence case management
11 system documentation?

12 A. Yes, sir.

13 THE COURT: Can you put the photograph of the
14 last envelope up?

15 MR. GRUBB: The front, Your Honor?

16 THE COURT: Yes. I thought you said the top
17 sticker is your bar code sticker?

18 THE WITNESS: Yes.

19 THE COURT: The sticker to the left is the
20 Medical Examiner's sticker?

21 THE WITNESS: Correct.

22 THE COURT: And the one to the right?

23 THE WITNESS: Applied by NMS labs after they

1 do their testing.

2 THE COURT: So how do I know what tape is the
3 lab using?

4 THE WITNESS: They don't use any tape.

5 THE COURT: The envelope comes back to you --

6 THE WITNESS: That is an interesting thing
7 that you brought up. I should probably explain that.

8 When we send evidence up to NMS lab, it is
9 packaged in a sealed box. When they return it back to
10 us, I learned this from cutting it open so I could
11 photograph this tape. What they do is they will cut
12 open this envelope, take this envelope, they will place
13 it into a clear plastic bag and seal it. They don't do
14 anything to it. Then they take the contents, I imagine
15 they test it, weigh it, then they take the contents,
16 place that in another clear plastic bag and seal that.
17 They then take that bag, place it inside another clear
18 plastic bag, seal that. So they never put their own
19 type of tape. The way they maintain the integrity of
20 the evidence is cut it show, where they cut it, seal
21 the envelope as a whole.

22 THE COURT: When you get it back, you get a
23 single envelope that has the original evidence

1 envelope, plus another contained in that bigger plastic
2 bag envelope and the drugs?

3 THE WITNESS: Yes.

4 THE COURT: Is it marked somehow they have
5 sealed it?

6 THE WITNESS: It is, like, heat sealed. No
7 way to gain access. You would notice the bag would be
8 ripped. It is a fairly thick plastic. Then on the
9 outside of that bag, you have this same sticker on the
10 outside of the bag to confirm the contents.

11 THE COURT: Thank you.

12 BY MR. GRUBB:

13 Q. Sergeant, the evidence envelope that we saw
14 here from Michael Irwin, to your knowledge they were
15 all shipped and tested at NMS?

16 A. Correct.

17 Q. Your testimony to the Court, you don't see any
18 NMS tape on any of those envelopes presented to you
19 now?

20 A. No, I do not.

21 Q. The heat Ziplock bag that you were referring
22 to, is that from personal experience when you opened
23 those drug envelopes?

1 A. Yes.

2 Q. I would like to change gears and fast forward
3 to February 20, 2014.

4 Is that the day that the Delaware State Police
5 went into the office of Chief Medical Examiner and put
6 a lock on the drug vault door?

7 A. Correct.

8 Q. Were you present on that date?

9 A. Yes.

10 Q. Do you know why that was done?

11 A. It was done to secure the integrity of that
12 evidence at that time. We couldn't control what
13 happened before. We could maintain the integrity --
14 only way we could maintain the integrity of the
15 evidence as it was, as it currently stood is to secure
16 that outside door so no one could have access, to limit
17 access.

18 Q. Are you a Chief Investigative Officer with
19 respect to the investigation into the Office of the
20 Chief Medical Examiner?

21 A. No, I am not.

22 Q. You were just there to assist, given your role
23 as evidence chief?

1 A. Correct.

2 Q. Do you recall what type of lock was put on the
3 drug vault?

4 A. It was just a padlock with a hasp bought at,
5 like, Lowe's or Home Depot. We drilled into the door,
6 secured the hasp, then secured it and put a key -- just
7 a regular key lock.

8 Q. Who has the key?

9 A. Lieutenant Wallace and Lieutenant Laird are
10 the two people that had keys.

11 Q. Anyone else?

12 A. No.

13 Q. Can you trace for us how it came to be when
14 all of the evidence in the drug locker at the Medical
15 Examiner's Office was taken out and taken a different
16 place?

17 A. Yes, I can.

18 When we were at the point where we realized we
19 were going to have to remove every piece of evidence
20 from the Medical Examiner's Office, transport it back
21 to the Troop 2 evidence locker, to secure it pending an
22 audit. It was going to be a huge task. We tried to
23 think of the simplest, most systematic way we could do

1 it with the understanding that once we removed the
2 evidence, conducted the audit, if need be we would like
3 to replace it back to that locker in the same fashion
4 it was taken.

5 So when day do their queries and stuff, they
6 know how to access, locate that drug evidence.

7 Q. Talking about they as in the Medical
8 Examiner's Office?

9 A. Yes. Second of all, in that decision process
10 I wanted to make sure that we could track each piece of
11 evidence we took out of there via receipt.

12 Q. How did you do that?

13 A. Do you want me to just finish?

14 Q. Sorry.

15 A. Then in making that process, I want to make
16 sure when we stored that evidence at Troop 2, it was
17 done in a fashion, in a manner that -- this wasn't
18 being entered into our computer data base at Troop 3.
19 So we set up a system so that if someone from the
20 Attorney General's Office, someone needed a specific
21 piece of evidence, we are talking over nine thousand
22 pieces, I was going to be able to go in there and find
23 that in the way it was organized and structured.

1 But then you got back to the receipts and how
2 we obtained those.

3 Q. Please. You referenced tracking, everything
4 that came out. Explain to us how you did that?

5 A. What we did, we wanted to start
6 chronologically from the most recent piece of evidence
7 that was submitted to the Medical Examiner's Office,
8 work our way backwards in chronological order to the
9 oldest piece they had sitting in the locker.

10 Because of the large volume, we decided to
11 utilize medium-sized cardboard boxes, banker boxes, to
12 be general.

13 We would place anywhere from 25 to 50 pieces
14 of evidence in each box, just make it a manageable
15 number to inventory. If evidence was package and it
16 was a little larger, or smaller, we get a little more
17 or less, a rough estimate maybe 25 to 50 pieces.

18 The very first box that we removed would we
19 start with initials ME to identify the evidence coming
20 from the Medical Examiner's Office. First box removed
21 on the first day was ME 1A, second box going back in
22 order of evidence I retrieved would be ME 1B. So that
23 basically tells me when I am querying, this box of

1 evidence was removed from the Medical Examiner's Office
2 on the first day we removed evidence. This was the
3 first box. Take that back, we go all the way through
4 the alphabet; ME 1A through 1F that first day, or G.

5 Q. Labels that you came up with?

6 A. Yes, I mark that box ME 1A, I knew that was
7 the very first box. Once that box was identified, it
8 was brought out into the, almost, like an office suite
9 receiving area that adjoined that evidence locker. I
10 would sit down with that box, J Daneshgar was assigned
11 to assist us in removing all the evidence. I would
12 then go through that box, recite to him every single
13 Medical Examiner's Office number they had assigned to
14 it.

15 That way he could go into his program, he
16 could check and identify that case, show that it was
17 being transferred to Delaware State Police.

18 He would check those off. Once I complete
19 that box, once we were satisfied it was inventoried, he
20 hit a button, that program would then generates two
21 receipts. One receipt I kept for myself, one receipt
22 they retained showing they had turned the evidence over
23 to us. We need receipts showing we receive evidence.

1 I would take those receipts, I get a large
2 envelope. Again, I would make the annotation of ME 1A
3 on there, put those receipts in that envelope, place
4 that in that box.

5 The way that became critical was when we went
6 back and did our audit with spread sheets, we would
7 pull those receipts to identify every piece. We could
8 make the best annotation to locate that piece at a
9 later date. When it was entered on the spread sheets,
10 you would input the Medical Examiner's Office
11 information, defendant's name, complaint number. You
12 just query that spread sheet, and when you get that hit
13 on that you see located in box ME 1A, you know to go
14 back to the locker, pull that box, that piece of
15 evidence is here somewhere. I was dealing with one
16 small box.

17 Q. So let me make sure I understand. You would
18 take a number of evidence envelopes from the drug
19 vault, correct?

20 A. Yes.

21 Q. Put them in a box, banker box you said?

22 A. Yes.

23 Q. You then would designate ME 1A, or whatever

1 for that box, correct?

2 A. Yes.

3 Q. Then you would take that box, you would read
4 the identifying information on the exterior of the
5 envelope to James Daneshgar?

6 A. Yes.

7 Q. And then Daneshgar would input that into the
8 spread sheet you said?

9 A. No, he would put that into their computer data
10 base so he could account in their system this property
11 was being removed, TOT to the State police.

12 Q. Did you say you handwrote anything anywhere,
13 or did I make that up?

14 A. No, what I wrote was the corresponding box
15 number, I wrote that on my envelope so I know these
16 receipts belonged in this box. So that way, every box
17 had a large envelope with all the receipts inside it.
18 The envelope is clearly marked these receipts belong to
19 this box.

20 Q. How do those drugs get from the Medical
21 Examiner's Office office back to Troop 2?

22 A. We would transport them back in our vehicles,
23 departmental vehicles.

1 Q. Police cars?

2 A. Yes.

3 Q. Would you do that contemporaneously?

4 A. Yes, we did. What we would do is we would go
5 up there, work as long as we were going to work,
6 removed as many boxes as possible in that day. We
7 would load them onto dollies in the lab area, then once
8 we were finished, had our receipts, boxes, everything,
9 take those down, load them in our vehicles, transport
10 the drug evidence back to Troop 2, load it into Troop
11 2's drug evidence control center where I had set up
12 several shelves all in the center of our locker so we
13 could organize it sequentially.

14 Q. Did you do that for every piece of evidence in
15 the drug vault?

16 A. Yes, we did.

17 Q. You testified before, you said that was over
18 nine thousand items?

19 A. Yes.

20 Q. How long did it take you to do that?

21 A. With removal of evidence, it started on
22 February 21, 2014, we completed removal on March 31st
23 of 2014, I believe.

1 Q. Pretty long time?

2 A. Yes.

3 Q. How were drugs secured over at Troop 2?

4 A. Secured within our drug evidence control
5 center.

6 Q. Who has access to the center, the same people
7 as before?

8 A. Same as I stated before, yes.

9 Q. Given the investigation, as led by Lieutenant
10 Laird and Lieutenant Wallace, did any additional people
11 have access to those drugs?

12 A. Yes, Lieutenant Wallace is assigned to a
13 different troop in Kent County. As he was part of
14 investigation, he was also given access so because he
15 was part of the investigation and one other officer,
16 Sergeant Lloyd, who was also part of the investigation.

17 Q. Sergeant Lloyd?

18 A. Sergeant Lloyd.

19 Q. Did you also put in place a procedure and a
20 process for what we have been terming auditing the
21 drugs that were removed from the Medical Examiner's
22 Office?

23 A. Yes.

1 Q. Could you testify to that, please?

2 A. We set up our audit teams, we try get
3 representatives from many different agencies as
4 possible to assist us with the audit. Most of our
5 support came from New Castle County Police, Wilmington
6 Police Department, Newark, Attorney General's Office,
7 and DATE.

8 THE COURT: Sorry and...

9 THE WITNESS: DATE. Drug and Alcohol Tobacco
10 Enforcement. They changed the name recently. Set up
11 in an office adjoining our evidence locker. To gain
12 access to our evidence locker, you go into a secured
13 area of the building that only evidence people who have
14 access can get into. Once you go into that area, there
15 is another door that you need to swipe to gain access
16 into a larger evidence room. As you are into that
17 evidence room, you go off, back to the right there is
18 another large room that you need a separate key to get
19 into where our drug evidence is stored. Off to the
20 left is another large room, keyed entrance, key access
21 where we keep our guns that were seized and stored.

22 As you come into that main entrance not going
23 to the left to the locker, off to right is like an

1 office suite, a larger office where we have the
2 computer, tables, different type of equipment. That is
3 where this audit took place.

4 We would set up teams of two, either three or
5 four teams at a time throughout the day. Start usually
6 about eight in the morning, go to four. Each of those
7 teams have someone assigned as a scribe, they would be
8 making notations on the audit sheet itself about the
9 envelope and contents, and the other person would be
10 the one actually cut open the envelope, remove the
11 evidence, weigh it, analyze it -- not analyze it,
12 visually examine it, determine whether or not it was
13 the same as, appeared to be same as it was on the
14 envelope, then they would seal that back up and initial
15 it.

16 Once they would finish their -- give the audit
17 sheet to me, I would marry that up with the receipt
18 from the Medical Examiner's Office.

19 I would start -- back it up when I would start
20 my day, I would go back it would be staged in the room
21 for the audit. I would go back in the drug locker say
22 the first day, box ME 1A, I would grab that box, bring
23 it out, sit it next to me. I would start handing

1 envelopes out to each team. They would have one a
2 piece, conduct their audit, do it, as they gave it back
3 to me I had my envelope with the receipts in it. I
4 marry the audit sheet up with the receipts, replace
5 this back in the envelope. Once that box was done, I
6 would take that box, replace it back into the drug
7 locker, put it back up, grab the next box, come out,
8 repeat the process.

9 Eventually those receipts were provided to a
10 secretary or people to make spread sheets for us.

11 BY MR. GRUBB:

12 Q. For tracking purposes?

13 A. Yes.

14 Q. Did the State Police create the audit sheet
15 that you are referring to?

16 A. Yes.

17 Q. Was the same sheet used regardless of which
18 two-person team would be conducting the audit?

19 A. Correct.

20 Q. Did you utilize a website known as drugs.com
21 during the audit?

22 A. Yes.

23 Q. Please tell us a bit about that?

1 A. What happened was as you are opening those
2 envelopes, you may have Oxycodone, 24 caps. And what I
3 learned is Oxycodone comes in a lot of different
4 varieties and types, shapes, colors, numbers stamped on
5 the pills. We would have, maybe, pills on the inside
6 here of a certain color, certain number on it. You go
7 to drugs.com, enter that specific number, it might be
8 024 on one side with V on the other. That information
9 would confirm this is Oxycodone. It would bring a
10 picture of the pill up that would show the color,
11 description would match it. Yes, it is the same pill.

12 Q. Used it as an assisting tool?

13 A. Yes.

14 Q. Were the evidence envelopes that were audited
15 limited to any specific agency or time frame?

16 A. No, I am not sure I understand. Who got them?
17 Is that what you are saying? Who did the audit based
18 on agency?

19 Q. Would it be possible for the audit teams to be
20 inspecting and auditing a drug evidence envelope from
21 the Delaware State Police?

22 A. Yes.

23 Q. Would it possible for them to be auditing

1 something from the Rehoboth Police Department?

2 A. Yes.

3 Q. Delaware River and Bay?

4 A. Yes.

5 Q. Wilmington?

6 A. Every law enforcement agency in the State of
7 Delaware.

8 Q. Any evidence envelope that was in the drug
9 vault when you took it out?

10 A. Correct.

11 Q. Is that fair?

12 A. Yes.

13 Q. Specifically, with our two cases that bring us
14 here today, are you able to tell us when the evidence
15 from the Michael Irwin case was taken from the Medical
16 Examiner's office to the troop?

17 A. If I recall correct, I believe these were
18 removed in box ME 3A. I'm not sure, might have been on
19 2/27. Not sure if I am correct on that.

20 Q. Mr. Collins will undoubtedly ask you a number
21 of questions about this form, but on page State's
22 Exhibit 3, page four?

23 THE COURT: Before we get there, he is looking

1 for it.

2 BY MR. GRUBB:

3 Q. Looking at, I will put it on the screen if
4 that is okay with you. I have here, this is a Medical
5 Examiner's Office submission receipt; is that correct?

6 A. Yes.

7 Q. According to this one, your name is on there?

8 A. Yes, sir.

9 Q. We have a date of February 27, 2014?

10 A. Correct.

11 Q. That would be that date, that time, that
12 whenever James Daneshgar punched the button, right?

13 A. That date, that time, complaint number,
14 Medical Examiner's Office number, all correct.

15 Q. You didn't create this form, you didn't enter
16 this data?

17 A. This is generated from their program.

18 Q. This is State's Exhibit 4, page four, fair to
19 say we are looking at another submission receipt, sir?

20 A. Correct.

21 Q. I will represent to you it is for Michael
22 Irwin. We see your name, again, February 27, 2014
23 date?

1 A. Yes.

2 Q. State's Exhibit 2. Page five, another
3 submission receipt.

4 A. Yes.

5 Q. We see your name, we see the date of
6 February 27, 2014, right?

7 A. Correct.

8 Q. Once again, we are seeing your name. You
9 didn't put your name in there, did you?

10 A. No, I did not.

11 THE COURT: Officer, is the form that was
12 utilized you were just shown, are those the forms that
13 were utilized to record the giving of that evidence to
14 you to take back to Troop 2 after?

15 THE WITNESS: Yes, that is how they track what
16 was transferred to us.

17 THE COURT: The same form they would have
18 utilized when you -- before the investigation you would
19 have dropped off evidence, they would give you a
20 receipt?

21 THE WITNESS: I never got receipts.

22 THE COURT: You never got that document
23 before?

1 THE WITNESS: No, I just use my transfer
2 sheet. I made copies of what I gave them. They didn't
3 print those sheets off for me.

4 THE COURT: Is it fair to say the first time
5 you had seen this particular Medical Examiner's receipt
6 form was during the investigation?

7 THE WITNESS: I have seen it before because
8 prior to me coming to the unit they did used to provide
9 receipts. They discontinued that practice shortly
10 after that. So I was familiar with what it was, and
11 what it was being used for. I personally wasn't
12 receiving them while I was doing my job.

13 BY MR. GRUBB:

14 Q. You maintained a form that you signed,
15 Sergeant?

16 A. Yes.

17 Q. Would that be your tracking receipt?

18 A. Yes. Also in my computer data base, troop
19 case management system.

20 Q. Referring to State's Exhibit 1, page four to a
21 different case, a Wilmington case. What is the date
22 corresponding with that, March 4?

23 A. March 4, 2014, correct.

1 Q. We don't see your name anywhere on here,
2 right?

3 A. No.

4 Q. Drug evidence that came out from the drug
5 locker when you were reading it, James Daneshgar was
6 putting information into the system, would it have gone
7 to anyone other than you?

8 A. No.

9 Q. Would it have gone to Aaron Lewis?

10 A. No.

11 Q. Joe Kotlowski?

12 A. No.

13 Q. Anyone else?

14 A. No. We were the only ones involved in the
15 process.

16 MR. GRUBB: I have no further questions.
17 Thank you.

18 CROSS EXAMINATION

19 BY MR. COLLINS:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. I think what I am going to do is start with
23 the second portion of your testimony, with respect to

1 the audit, then we will circle back to the original
2 testimony about the evidence in this particular case.

3 Did you draft a supplemental police report on
4 July 6, 2014, with respect to the OCME investigation?

5 A. That's possible, yes.

6 MR. COLLINS: Your Honor, may I approach and
7 show it to him?

8 THE COURT: Sure.

9 THE WITNESS: Yes, this is one I did.

10 BY MR. COLLINS:

11 Q. Did you create this report specifically in
12 preparation for this hearing, or it is just a
13 coincidence it happened a couple days ago on Sunday,
14 July 6th?

15 A. No, it was specific for this hearing to
16 provide tracking -- just as it came up.

17 Q. It says supplemental report. You would agree
18 with me, right, if there is a supplemental report,
19 there must have been an initial crime report that
20 kicked off this investigation?

21 A. Correct.

22 Q. You did not author that report?

23 A. No, I did not.

1 Q. I'm going to assume that you are not privy to
2 other officers' reports at this time; is that fair?

3 A. Correct.

4 Q. That is because you are not the Chief
5 Investigative Officer of the case?

6 A. Right.

7 Q. Have you, in fact, generated other
8 supplemental reports with respect to the OCME
9 investigation case?

10 A. Yes, I have.

11 Q. Do you know how many, by any chance?

12 A. Less than ten. I don't know a specific
13 number. I would say less than ten.

14 Q. You seem pretty familiar with the
15 investigation. I am calling it the OCME investigation,
16 but I should make a record. It is complaint number
17 02-14-014033, 02 that means Troop 2?

18 A. Correct.

19 Q. And would you agree with me that this is the
20 investigation that, among other things, resulted in the
21 arrests of James Woodson and Farnum Daneshgar?

22 A. Correct.

23 Q. Is that investigation still ongoing?

1 A. To my understanding, yes, it is.

2 Q. I get that you are not the shot caller in this
3 case, just asking if you know.

4 There is a blank on this report on the bottom
5 saying pending supervisor review. This is just a
6 report you drafted and your process is you submit to a
7 supervisor for approval, right?

8 A. Correct.

9 Q. Have you ever reviewed the report called
10 investigation of missing drug evidence preliminary
11 finding Delaware Department of Justice drafted a little
12 while ago?

13 A. Portions of it. I have not read it
14 completely.

15 Q. I will represent to you it is attached as part
16 of the pleadings in the case to the State's response.
17 I want to read you a paragraph which is about ten lines
18 long from page six, under heading Roman numeral four;
19 OCME dash CSU investigation begins, and I have a couple
20 questions about it.

21 The investigation was divided into two parts,
22 criminal investigation; and two, the audit of all
23 evidence submitted to, or held by OCME. On

1 February 20, 2014, members of the DDOJ, and DSP
2 responded to the OCME facility, address noted, and
3 informed OCME management of a criminal investigation
4 and suspended OCME's internal audit.

5 I am going to stop there. You are aware OCME
6 was doing its own audit after --

7 A. Correct.

8 Q. -- problem were discovered?

9 A. Correct.

10 Q. I'm going to continue reading, almost done,
11 "As well as operations within the OCME. All OCME
12 employee access to the drug vault was revoked."

13 MR. GRUBB: One point of clarification, OCME
14 dash CSU. OCME has about five different units so the
15 record is clear.

16 BY MR. COLLINS:

17 Q. What does CSU stand for?

18 A. Office -- CSU crime.

19 MR. GRUBB: For the record, it is the
20 Controlled Substances Unit. He didn't write the
21 report. He probably doesn't know.

22 BY MR. COLLINS:

23 Q. So Controlled Substances Unit. "All OCME

1 employee access to the drug vault was revoked.
2 Employees were instructed to cease testing of any
3 submitted evidence. As an added security measure, a
4 separate key lock was placed on the drug vault door
5 which limited access to designated DSP personnel." Of
6 which you were one, correct?

7 A. Yes, sir.

8 Q. Generally speaking, do you agree with that
9 paragraph, that is pretty much what happened?

10 A. Yes.

11 Q. You would agree with me, despite locking out
12 the OCME CSU employees from their place, at least from
13 where the evidence was stored, revoking all their
14 access, you nevertheless used OCME CSU employees to
15 help you with your audit, right?

16 A. They did help us with the audit by just
17 generating receipts for me.

18 Q. Did James Daneshgar, however it is pronounced,
19 have access to the drug evidence after February 20th?

20 A. Never outside our presence.

21 Q. That is not the question I asked. Did he have
22 access? Did he touch drug evidence?

23 A. He may have touched, like, if I am looking he

1 may have look at it, he never -- really he just sat
2 there and made notations on the computer for us. He
3 wasn't involved in pulling cases. I just recited to
4 him the cases. He would print out receipts. He would
5 leave when we left. He was never left unattended or he
6 had no access to it.

7 Q. I didn't ask if he was left unattended, I
8 asked did he assist you with the investigation. The
9 answer is yes?

10 A. Yes.

11 Q. And he physically handled drug evidence during
12 the DSP investigation, right? I can tell you want to
13 be precise. I'm not saying he reached into drug
14 envelopes and pulled out some cocaine. I'm saying he
15 touched envelopes and handed them to you?

16 A. He did not hand them to me. I brought boxes
17 out which is -- he really didn't put hands on the
18 evidence when we were removing it. He had no reason
19 to. He was just making notations in the computer for
20 us.

21 Q. I understand your testimony that you kept eyes
22 on him at all times. He did not have unrestricted
23 access, is that what you are testifying to?

1 A. Yes.

2 Q. Who was assigned to watch him?

3 A. We are all in there together; myself, Agent
4 Lloyd, and Detective Lanno. Myself and J were in the
5 outside office area. They would bring boxes out to me,
6 he basically sat at his computer.

7 Q. By J, you are referring to James Daneshgar?

8 A. Yes.

9 Q. And he wasn't the only one that you guys used
10 for help, right?

11 A. That only one I can recall using, as far as
12 removing evidence.

13 Q. This is a portion of State's Exhibit 2,
14 everything I am going to ask you I believe is in the
15 Michael Irwin case. For reference, FE 09736. I'm
16 going to show you page four of that. I will represent
17 to you that it is the chain of custody report and you
18 don't generate these reports, right?

19 A. No.

20 Q. Have you ever seen one?

21 A. No.

22 Q. Well, would you agree with me that basically
23 it has times and dates of events, then it describes the

1 event and the person who conducted that event?

2 A. Yes, sir.

3 Q. I want to ask you about one of the entries on
4 here, and I want to put my pen on it here. See that
5 one that says 2/27/2014?

6 A. Yes, sir.

7 Q. Not to state the obvious, that is obviously
8 after the lockdown, right?

9 A. Yes, sir.

10 Q. It says here Patricia Phillips is placing
11 evidence in storage at DHSS OCME controlled substance,
12 right.

13 A. That is what it appears to say.

14 Q. You remember seeing Patricia Phillips walking
15 around putting evidence in drug lockers?

16 A. No.

17 Q. Any idea why the official chain of custody
18 record would say that?

19 A. No idea.

20 Q. Then later you have, I don't know, like,
21 17 minutes later, I guess, 2:15, one entry below that,
22 you have James Daneshgar removing said evidence from
23 that place where Patricia Phillips just put it, and

1 removed from storage and then placing it in storage at
2 the exact same time including the seconds?

3 A. I think --

4 Q. Let me finish the question so we make a good
5 record. So that would, not imply, that would indicate
6 that James Daneshgar touched this piece of evidence,
7 right?

8 A. I think where the misunderstanding, if I am
9 recalling this correctly, not only did they have drug
10 evidence up in their drug evidence locker, but the
11 State chemists themselves had lockers that were secured
12 and locked in their lab. This may have been the date
13 when we went up there -- down and removed all the drug
14 evidence for the locker. So this may have been
15 evidence that was removed from Patty Phillips' locker,
16 maybe say she didn't remove it, we removed it. It may
17 have been evidence removed from her specific locker,
18 transported back to -- we took it, so J, James, in
19 order to show continuity in his program, I'm assuming
20 he may have had to show it was removed from Patricia's
21 locker, put in the main locker, then logged back out to
22 the State Police, as opposed to going straight from her
23 locker. That is the only explanation I can give.

1 Q. I appreciate you trying to offer an
2 explanation, and I further appreciate this is not your
3 report. Are you saying that fictitious entries are
4 being created in order to describe something that
5 happened during the investigation, rather than Patricia
6 Phillips actually being there like it says on the form?

7 A. I am thinking they put her name because it was
8 taken from her locker. That is only thing I am saying.

9 Q. I appreciate the speculation. I understand.
10 Again, it is not anything you generated. We can at
11 least agree that is what it says?

12 A. That is what appears on its face.

13 THE COURT: Put it back up for a second. The
14 last entry, also, 2:15:05 says Daneshgar placed this at
15 Delaware State Police, in storage at Delaware State
16 Police. Was he ever at Troop 2?

17 THE WITNESS: No, never. Like I say, Your
18 Honor, because it was pulled from her locker on that
19 date, he had to, for their program, technically log it
20 back in the main locker, that is their normal policy
21 after it's been tested before returning to the
22 appropriate agency. I think he may have gone through
23 the steps to satisfy the program so it could be

1 returned to me.

2 THE COURT: Let me ask you this question; this
3 is obviously a document that has been generated by the
4 Department of Justice to articulate, I believe by them,
5 to articulate the chain of custody. How would I be
6 able to determine whether that is correct, or what you
7 have told me is correct? Somewhere along the way
8 someone has gotten this information.

9 THE WITNESS: They would have to explain that,
10 Your Honor, sorry.

11 BY MR. COLLINS:

12 Q. In essence, what the lockdown slash audit,
13 call it, I think you called it an audit?

14 A. Yes, sir.

15 Q. Was designed to capture every piece of
16 evidence that was in the possession of OCME CSU?

17 A. Correct.

18 Q. And have a completely independent separate
19 entity, review it, check it, et cetera?

20 A. Correct.

21 Q. Inventory it?

22 A. Yes.

23 Q. I really wasn't going to ask certain of these

1 questions today, but it may save me recalling you if I
2 just ask you about some of the questions that are in
3 the preliminary report the DOJ promulgated, because
4 they pertain specifically to the audit.

5 Now, there is a statement on page 22, that
6 report states that OCME records had 8568 pieces of
7 evidence. You guys actually found 9273. Right?

8 A. I believe that is right, excess of nine
9 thousand. You are right.

10 Q. So I am terrible at math, but it looks like
11 700 or so items of evidence laying around, that the
12 OCME CSU didn't even know were there, in essence?

13 A. I have -- I can't explain that.

14 Q. Not relevant to this case, in terms of actual
15 pieces of evidence; do you know what happened to those
16 pieces of evidence, were they logged in, destroyed?

17 A. Not sure if I follow you.

18 Q. The extra 700 pieces of evidence, what
19 happened?

20 A. We audited them. We removed 9270 pieces. I
21 don't know why they couldn't account for those pieces,
22 is that what you are asking?

23 Q. I didn't ask it very well. Police agencies

1 bring drug evidence to OCME CSU, they belong to a case
2 and the DOJ is prosecuting a case. When there is 700
3 something leftover pieces that the OCME CSU does not
4 affiliate with any particular case, what happens?

5 A. I have no idea. We just know that we had over
6 9000 physical pieces that we audited.

7 Q. I'm trying to be careful not to ask you
8 questions outside of what you did. If you don't know,
9 you don't know. Page 23 of the report, a small amount
10 of loose drugs were occasionally found on the floor of
11 the drug vault. Was that you finding that stuff during
12 your audit, or was that different observations by
13 different investigators?

14 A. It may have been different observations, I
15 don't recall doing that -- seeing that myself.

16 Q. Now, we have been talking about this vault,
17 right, room within a room kind of thing. I get that,
18 but there are also other places where this audit team
19 found drug evidence, right?

20 A. We found evidence -- you mean at the Medical
21 Examiner's Office?

22 Q. Right.

23 A. Only two locations I know that evidence was

1 removed was the actual drug locker itself and the State
2 chemists' lockers.

3 Q. Say that again?

4 A. Drug evidence locker itself maintained by OCME
5 and the State chemists themselves that tested drugs
6 they had their own individual lockers for pending
7 cases, stuff that was pending return. They kept drug
8 evidence in those. They had different combination
9 locks for each of those.

10 Q. Stuff they were working on?

11 A. Correct.

12 Q. You have, at least, given an educated guess as
13 to why Patricia Phillips' name would be on that chain
14 of custody, that is that sort of situation, correct?

15 A. Correct.

16 Q. When the report says on page 23, that there
17 was drug evidence in the lab manager's personal office,
18 and the manager had a box of old evidence in the drug
19 vault -- scratch that last part. Did you guys go in
20 the old manager's office and find some drug evidence?

21 A. I never did. I am not familiar with that.

22 Q. Others may have?

23 A. Others may have, the investigating officers.

1 Q. Page 24 of the report indicates investigators
2 found a box containing medication back to 2012
3 involving death cases. Was that inventoried; do you
4 know? Do you recall finding that box?

5 A. Yes, that was in the back portion, like, they
6 were clear plastic bags. I believe when investigators
7 go out to handle death investigations, people that are
8 deceased they have excess amounts of medication, they
9 would bag these up, then be stored, supposed to be
10 store in the locker pending destruction. These
11 particular items were never destroyed, still remained
12 in the locker.

13 Q. Speaking of not being destroyed, would you
14 agree your audits revealed there was evidence from 1989
15 still in the vault?

16 A. Yes, there were some old cases. I couldn't
17 say that was -- that sounds familiar.

18 Q. One final question about the report, I
19 appreciate that you haven't thoroughly reviewed it.
20 There is an entry on page 26 that states that two boxes
21 contained various pieces of unrelated drug evidence
22 were located inside the drug vault. Do you recall
23 coming across those boxes?

1 A. Not sure what they would be talking about
2 unrelated, unrelated to what?

3 Q. That is what I was going to ask you.

4 A. I couldn't explain that.

5 Q. How does -- before we get into the actual
6 evidence.

7 How does the OCME CSU's practices involving
8 the reporting, storing, maintaining of drug evidence
9 that you observed during your audit, compare to your
10 own personal practices that you engaged in at Delaware
11 State Police?

12 A. I am not really sure all their -- I know we
13 track and document everything when it leaves, who it
14 leaves with, when it returns, when it is stored. Any
15 time -- I really don't have -- I am not familiar with
16 their internal policies and procedures specifically
17 pertaining. All I know is that I would take it up,
18 they would provide me with a receipt, return evidence
19 to me with a receipt.

20 Q. I'm asking you, I understand, I am asking as a
21 member of the audit team, what was your reaction to
22 finding some of the evidence in the condition that you
23 found it, missing evidence, extra evidence they didn't

1 know about, et cetera?

2 A. It was obviously lack of oversight and
3 policies and procedures not being followed.

4 Q. Moving on. I am randomly picking up a
5 photograph or two. I have a couple quick questions
6 about it. This happens to be State's Exhibit 17 from
7 the Michael Irwin case. Can you see that?

8 A. Yes.

9 Q. So my question is, I mean, Irwin's evidence
10 was seized by Russo, I will represent to you on the
11 17th and 18th of September. My question is; what
12 happened to it between then and the time that you
13 logged it into your computer system of 20th of
14 September?

15 A. It would have been in a temporary evidence
16 locker.

17 Q. Who controls that, Russo?

18 A. It is locked at the troop, controlled by the
19 patrol sergeant has the key to it.

20 THE COURT: Officer, if an arrest is made late
21 Friday night, they would have put it into the drug
22 locker they have at the troop. If you came in on
23 Monday morning, or Tuesday morning, whatever date you

1 are at that troop, there would be a gap of time.

2 THE WITNESS: Exactly right.

3 THE COURT: Before the investigation began,
4 you would make your normal twice-a-week runs to the
5 Medical Examiner. When you went into the locker, drug
6 locker area where you would make the transition, was
7 the drug locker that you testified about open, or was
8 it locked?

9 THE WITNESS: Sometimes I would go in, the
10 door would be shut. Other times I go in, there is like
11 a little door stop, it would be propped open. Every
12 time I went in that exterior door that gave you access
13 to that locker was secured, had to punch in some type
14 of key code to get access to that.

15 BY MR. COLLINS:

16 Q. I have some questions about the evidence that
17 you seized in the Irwin case. It is a little, I don't
18 think complicated is the right word, it is a little
19 involved. There were three separate seizures. I'm
20 going to try to refer to them as exhibit number. I
21 will represent to you that you turn a couple pages
22 ahead on any particular Exhibit up there, find the FE
23 number, that is probably the best way to get to the

1 document I am asking you about.

2 First one I want to ask you about is it's
3 State's Exhibit 3, pertains to FE 08434, and you have
4 that there?

5 A. Yes.

6 Q. You can establish through this Troop 2
7 evidence case management system that -- I will
8 represent to you just factually those are, as you
9 correctly pointed out, two items of evidence which were
10 later -- this is one package, was not the one that
11 split off; marijuana, and 2.3 grams of MDMA/ecstasy
12 suspected thereof. You have these helpful in and out
13 sort of statuses. You are saying on 9/24/2013, 12:19
14 in the afternoon, you personally took that to the
15 Medical Examiner's Office for analysis, right?

16 A. Correct.

17 Q. And just for the record, that is State's
18 Exhibit 3, found on page one, and as further
19 documentation of that it shows that 1:10 you are
20 handing it off to Kelly Georgi, right?

21 A. Correct.

22 Q. Let me ask you a few questions about the
23 people who took in this evidence. Kelly Georgi

1 obviously was one. James Daneshgar was another?

2 A. Yes.

3 Q. Any other people that you handed off evidence
4 to?

5 A. Multiple people.

6 Q. Aretha Bailey?

7 A. Aretha Bailey.

8 Q. James Woodson?

9 A. James Woodson, Laura would be the -- she
10 hardly ever handled it, but occasionally she would.

11 Q. I will represent to you her last name is
12 Nichols?

13 A. Yes.

14 Q. Various people at various times?

15 A. Correct.

16 Q. I am going to turn to page three of that same
17 Exhibit, still talking about this same two-container
18 evidence sample. This is a form, it is not the one you
19 were shown by Mr. Grubb earlier, although it looks
20 exactly the same. This is a submission receipt. I
21 believe his Honor asked you; did you get those? You
22 did not get these?

23 A. No, I don't.

1 Q. So this shows Scott McCarthy handing off this
2 evidence on September 30, 2013, at 12:19 in the
3 afternoon. So did you go back and give him the same
4 evidence six days later, or what happened there?

5 A. No, I can't explain that.

6 Q. There is a six-day gap which you can't explain
7 in terms of at least these two forms that I have shown
8 you?

9 A. No.

10 Q. Now, your testimony and the documentation you
11 have referred to seems to indicate that you handed this
12 evidence to Kelly Georgi?

13 A. Correct.

14 Q. You did not hand it to James Daneshgar?

15 A. Correct.

16 Q. Under investigated by, towards the top of that
17 form it says Terranova. Was he the arresting officer
18 or seizing officer in this case; do you recall?

19 A. I don't believe. I think it was Russo.

20 Q. I thought so, too, that is why I asked.

21 A. Yes.

22 Q. Any idea how -- you may not know this because
23 it is not your form, it is OCME. Do you know how these

1 fields get populated?

2 A. I have no idea. I don't know if it -- I have
3 no idea.

4 Q. Terranova was not in the Michael Irwin case,
5 right?

6 A. Correct.

7 Q. To your knowledge?

8 A. That I know of.

9 Q. I am going to move forward one page in that
10 same Exhibit. It would appear from this chain of
11 custody report, same deal, you have a hand-to-hand
12 transfer from Scott McCarthy to James Daneshgar on the
13 30th of September. Would you agree that is what it
14 says?

15 A. Yes, sir.

16 Q. This evidence, at the exact same time and
17 seconds was placed, received by hand-to-hand, also
18 placed in storage by James Daneshgar on the 30th?

19 A. That is what it states.

20 Q. To your personal knowledge, you cannot
21 really -- you don't know what James Daneshgar did with
22 the evidence, right?

23 A. No.

1 Q. All you know is you gave it to Kelly Georgi on
2 the 24th?

3 A. Correct.

4 Q. Next I want to ask you, this is State's
5 Exhibit 2. Just to orient you, it is the one that was
6 split. I am going to ask you about FE 09736. Again,
7 page one, this will refresh your recollection that this
8 is the case you identified as being split, because some
9 of the evidence was sent to another police agency for
10 fingerprinting?

11 A. Another troop.

12 Q. Thank you, another troop.

13 That means that some evidence on either the
14 24th or 30th got to the OCME. Your testimony was it
15 was the 24th, and then November 5th, a later time, the
16 rest of the ecstasy bag was brought over, right?

17 A. Correct.

18 Q. You were the deliverer on both of those?

19 A. Yes, I was.

20 Q. It appears from page two of this Exhibit that
21 your also -- that James Daneshgar did, in fact, receive
22 this evidence from you on the 5th of November, right?

23 A. I can't see a signature.

1 Q. It would help if I put it in the right spot to
2 show that.

3 A. Correct.

4 Q. Not out of the ordinary, right?

5 A. No.

6 Q. So as you already testified to, November 5,
7 2013, at one o'clock, you are dropping off evidence,
8 using the protocols which you already talked about --

9 A. Correct.

10 Q. -- to James Daneshgar.

11 And, again, I appreciate that I am asking you
12 about receipts and things that you don't know anything
13 about. You did hand off evidence, so I have to at
14 least get your side of the story. The next form which
15 I will say is page three of the same Exhibit, which is
16 State's Exhibit 2, you are listed again. This time it
17 does, in fact, say Russo. You are listed as the
18 submitting officer to James Daneshgar, same date, but
19 not until 4:10 in the afternoon. Do you know why the
20 entry here would say 4:10 in the afternoon?

21 A. No, but it is not accurate.

22 Q. To move on to the chain of custody document
23 for 09736, again, a hand-to-hand transfer, McCarthy to

1 Daneshgar, 4:10 in the afternoon. From your testimony,
2 I take it you were long gone by then, correct?

3 A. Correct.

4 Q. Now, I am going to use Exhibit 2 as an
5 example, but I will represent to you that all three
6 Exhibits, 2, 3 and 4 in the Michael Irwin case all
7 feature a separate submission receipt which you have
8 already been asked about.

9 This is page five of State's Exhibit 2. So
10 what it depicts here, it says submitted by Donald
11 Kristie at the top. Do you know who Donald Kristie is?

12 A. He is an evidence -- works in -- he's not a
13 sergeant in the evidence detective unit Troop 3 in Kent
14 County, for the State Police.

15 Q. This is not a Troop 3 case, right?

16 A. Not at all.

17 Q. You have any idea whether Donald Kristie was
18 in any way involved in the prosecution -- pardon me --
19 investigation of Michael Irwin?

20 A. He wasn't.

21 Q. Investigated by field is populated by the name
22 Vernon. Does that ring any bells for you?

23 A. I believe we may have a Vernon on the job, but

1 I don't know that he was involved in this
2 investigation.

3 Q. Again, you are listed this time lower down as
4 the submitting officer to James Daneshgar. Dates for
5 all three of those pieces of evidence is 2/27/14, 2:15
6 in the afternoon.

7 A. Yes.

8 Q. If I understand your testimony correctly, you
9 are saying this event never took place, right?

10 A. Not at that time.

11 Q. It took place on either September 24th or
12 November 5th of 2013, depending on which evidence?

13 A. Yes, the dates -- I am getting my dates and
14 times mixed up. This is not an accurate reflection of
15 my receipt.

16 Q. I think you were asked questions, if I
17 remember correctly, as to whether this syncs up with
18 the time and date that you guys were in lockdown mode,
19 James Daneshgar is assisting you in some way at the
20 computer with giving evidence as part of the audit
21 process. Do I have that right?

22 A. He was giving us receipts for the evidence we
23 were removing.

1 Q. But for sure, you were not submitting evidence
2 to him on that date?

3 A. Not at all.

4 Q. I have a couple of other questions with
5 respect to the investigation. Did you find, in
6 reviewing OCME documentation as part of the audit, as
7 you were receiving evidence and logging in that there
8 were data entry errors with respect to case identifying
9 information, defendant names, et cetera?

10 A. Correct. What was consistent was complaint
11 number and FE number. I used that as a receipt for
12 matching with my envelope that I was receiving. That
13 information stayed the same. For some reason some of
14 the names weren't correct.

15 Q. So FE number is a given, right, that has to be
16 correct, that is what you are basing --

17 A. That identifies that specific piece of
18 evidence that goes with that, it matches the sticker
19 that is on the envelope.

20 Q. That is your intake identifier, right?

21 A. Yes.

22 Q. And then other fields were filled in
23 improperly in some cases; is that fair?

1 A. Correct.

2 Q. What sort of actions did the DSP audit team
3 take when there were errors on the information?

4 A. We didn't take any action, as far as names
5 being, like, investigators or submitting. We were just
6 merely focussing on contents of the envelope, and
7 integrity of that envelope itself, whether or not it
8 was compromised.

9 Q. So any errors have carried through then from
10 the OCME CSU, through this audit?

11 A. Pertaining to that specific paperwork, that
12 has not been changed or altered. You are correct.

13 Q. I picked State's 14, not really important what
14 it says, 25.3 grams of ecstasy slash MDMA. I need to
15 review with you how these envelopes were sealed and
16 stored.

17 That fancy design of tape, triangle at the top
18 and two diagonal lines, I am assuming that is the
19 seizing officer's tape job?

20 A. Correct.

21 Q. All done at the time of seizure prior to going
22 to you on September 20th?

23 A. Correct.

1 Q. I didn't understand your testimony about NMS.
2 My understanding NMS has their own means of doing it
3 and they don't have to put new tape on the envelopes?

4 A. Correct.

5 Q. They use a combination of, like, cryo plastic
6 bags and things like that to reseal things in their own
7 particular fashion; is that fair?

8 A. Correct.

9 Q. What you are saying is this evidence tape that
10 is basically a straight line across the bottom is tape
11 that was used after the individuals involved in the
12 audit process looked at the evidence; do I have that
13 right?

14 A. Yes, they applied that after they examined the
15 evidence.

16 Q. To your knowledge, being around the audit, is
17 that true in every case, they re-taped using blue DSP
18 evidence tape?

19 A. Yes, that is the only tape we utilized.

20 Q. Is there any reason you guys wouldn't use a
21 different color tape to make it obvious what the audit
22 team was up to?

23 A. We used what we had access to. DSP tape, that

1 is what we utilized. So we called our supplier, and we
2 needed an excessive amount. What we had done, when we
3 were originally analyzing, we were trying to determine
4 where we are going to go into these envelopes, locate
5 areas where there is no evidence tape whatsoever, pick
6 an uncompromised area, make access, tape it, then you
7 put your initials on it so we know that wasn't done by
8 the investigating officer.

9 Q. So the identifier is obviously not the color
10 or type of tape, it's all one kind of tape, but there
11 is initials over the top of it?

12 A. Correct.

13 Q. Did you have an opportunity --

14 THE COURT: Sorry. Officer, let me make sure
15 I understand it. When you look at it, it looks like
16 the investigation tape is darker than the original
17 Delaware State Police tape; is that not correct?

18 THE WITNESS: Correct, when we ordered
19 sometimes they come in various different shades based
20 on the batch. Relatively the same color. You do have
21 some alterations in how dark one tape may appear to
22 another, a different batch that is received.

23 THE COURT: It happened, it wasn't

1 intentional?

2 THE WITNESS: No.

3 THE COURT: Simply was what color tape
4 happened to be on the batch?

5 THE WITNESS: Yes, Your Honor.

6 BY MR. COLLINS:

7 Q. That would be a feature of every single DSP
8 case?

9 A. Yes.

10 Q. Same color tape used in the audit and the
11 seizure?

12 A. Yes.

13 Q. I will show you somewhat randomly, a page from
14 Exhibit 4, because all these forms are essentially the
15 same. This pertains to FE 08433, that is two suspected
16 marijuana blunts seized during a car stop that you have
17 already mentioned. Now, this form was generated in the
18 OCME investigations audit, right?

19 A. Yes.

20 Q. Sounds to me like you were around for a lot of
21 the audit process, fair to say?

22 A. Yes, sir.

23 Q. Did you personally observe officers, as part

1 of the team, doing whatever they did to the evidence
2 before they taped it back up?

3 A. Yes, I was in that room. I would hand them
4 the envelope. They would conduct, return the evidence
5 back to me with their audit form.

6 Q. Huge, high-volume process. You were present
7 for virtually every one of these?

8 A. Not every one. Sergeant Taylor also
9 supervised some of the audit days when I wasn't there.

10 Q. I just, and I understand that you are not the
11 inspector on the form. I want to ask you about the
12 form, your familiarity of it. This is page five of
13 Exhibit 4.

14 Where did these inspectors actually do with
15 this evidence after they took it out of the envelope?

16 A. Put it back in the envelope.

17 Q. What did they do while it was out?

18 A. Two blunts, it is two blunts, put it back in.
19 If there is a weight associated, they would weigh it on
20 the scale. If there was identifying characteristics on
21 a pill, state what type of pill it was, once they
22 confirmed it was matched what was on the envelope, they
23 returned it.

1 Q. This has a weight associated with it. It was
2 two blunts, 8 grams?

3 A. .8 grams.

4 Q. Do you know if they weighed that?

5 A. I can't say for sure what every individual
6 team did.

7 Q. Was there a published SOP what to do, when to
8 weigh and when not to weigh, when to just count and put
9 back in, when to go to drugs.com and look that up,
10 anything?

11 A. It was at the discretion of the individual
12 person conducting the audit.

13 Q. When you say the individual person, you are
14 referring to the person listed as inspector on this
15 form, right?

16 A. Yes, one of the two people.

17 Q. I don't know Maiura's rank, but Maiura, who is
18 SP; do you know?

19 A. That is Seth Polk.

20 Q. Polk and Maiura, they were inspectors on this?

21 A. Yes.

22 Q. Two per?

23 A. Correct.

1 Q. What you get out of this form is they open
2 this envelope at 9:16 and closed it within two minutes?

3 A. Yes.

4 Q. Tape it back up, said no discrepancy?

5 A. Yes.

6 Q. You don't know if there was weighing of the
7 two blunts or anything like that?

8 A. No, I couldn't say --

9 MR. GRUBB: Corporal Maiura is here, he will
10 testify to streamline things, he will have all the
11 answers Mr. Collins seeks.

12 BY MR. COLLINS:

13 Q. This one does not involve Corporal Maiura.
14 This is State's Exhibit 3, is FE 08434. This one does
15 and I will be quick. 08434 is the two pieces of
16 evidence suspected marijuana, ecstasy. They have that
17 envelope open for five minutes?

18 A. That is what it appears.

19 Q. I won't ask you anymore questions about it.
20 Maiura is here to testify. Last one I want to ask you
21 about --

22 MR. GRUBB: Anticipating the next question,
23 Gary Taylor is here to testify, as well.

1 BY MR. COLLINS:

2 Q. Last one is 09736, showing you page six from
3 State's Exhibit 2, this one conducted 2/28/2014, would
4 you agree that -- I will just represent that is the
5 suspected 25.3 grams of ecstasy. If it was just a
6 chunk of something like ecstasy, or crack cocaine, or
7 whatever substance might be, as opposed to something
8 countable, like pills, do you know if there was any
9 protocol in place as to whether to weigh that or not?

10 A. If a weight was given, it was expected to be
11 weighed. If it was a substantial amount, if you are
12 talking about a few grams, they may have looked at
13 that, it looks like two grams of marijuana, I am
14 assuming. To answer your question, no.

15 Q. I'm asking these questions not because these
16 guys are not going to testify and answer my questions,
17 it is because you seem familiar with the audit. It
18 sounds to me like there was never a team meeting or
19 promulgation of any guidelines to say okay, team,
20 inspectors, we are going to be inspecting, give or
21 take, 700, about nine thousand pieces of evidence here.
22 If it is a chunk of something, you weigh it. If there
23 is a weight given on the envelope, you weigh it. If it

1 is listed as 32 blue pills, you don't weigh it, you
2 know, things like that. If it is 852 bags of heroin,
3 you don't weigh it, you do weigh it, what have you.

4 Do you recall during the February 2014 audit
5 process, having any kind of protocol, discussion like
6 that with anyone in charge?

7 A. The purpose was basically to analyze the
8 envelope, look for signs, and assess whether does what
9 that state on the outside, is it basically what is
10 inside this envelope. I mean, it is -- does it reflect
11 what is in there. Basically if it does, the envelope
12 looks fine, wasn't seen as a compromised case.

13 Q. Okay.

14 A. Because there are variations. Marijuana is
15 going to weigh different when it is being submitted, it
16 could be six months later, may have dried out, may be a
17 little lighter. Different things that we didn't have
18 the privilege of knowing or understanding.

19 THE COURT: Is the answer to Mr. Collins'
20 question, there wasn't any written protocol, wasn't any
21 meeting every time you had new officers in to help you,
22 wasn't a training, 15 minutes here is what you are
23 supposed to do?

1 THE WITNESS: Basically a synopsis saying this
2 is what we are going to do, open the envelope, evidence
3 in there that has not been compromised or taped before,
4 assess whether or not the contents mirror what is
5 actually reflected on the face of that envelope. If
6 everything is good, seal it back up and go.

7 THE COURT: What is the number at the bottom?

8 THE WITNESS: That is the complaint number for
9 the case. As we went on, the form that was initially
10 generated, only number that was being captured was the
11 ME control number, and in order to create that spread
12 sheet, you will see as these go on, defense name being
13 included on there, complaint number. You can populate
14 more fields because sometimes you may have an input
15 error, they may have an extra zero. You try to query
16 that control number, you are not getting a response on
17 that. You can also run a complaint number that would
18 hit on that. You could locate the case. Just to make
19 it a little easier.

20 BY MR. COLLINS:

21 Q. Based on what you testified to about the
22 protocol, it might be fair to say lack of protocol that
23 was consistent among some inspectors, would it be fair

1 to say if the envelopes had 30 round blue pills
2 suspected Oxycodone, the officer opened it, and there
3 was 30 oval orange pills, clearly that would be a flag?

4 A. Absolutely.

5 Q. In a different scenario where it says on the
6 envelope 10.2 grams of an off-white chalky substance in
7 rock-like form. If these guys aren't -- they are just
8 eyeballing it, putting it back in the envelope, we have
9 no idea if a few grams of that were shaved off by
10 someone's pocket knife and taken out of the lab, right?

11 A. Correct, we have no idea.

12 MR. COLLINS: Thank you.

13 THE COURT: Re-direct.

14 MR. GRUBB: No redirect.

15 THE COURT: You may step down. Thank you.

16 Let's give the court reporter a break, short break.

17 (A short recess was taken.)

18 MR. GRUBB: Your Honor, if it pleases the
19 Court, there are a number of witnesses I have waiting
20 outside. It is four, soon to be 14. My next witness
21 is James Daneshgar from the Medical Examiner's Office.
22 I expect him to take a while. Does the Court have any
23 anticipated date and time to continue the hearing?

1 THE COURT: I am available tomorrow at
2 10 o'clock. Just roll it into tomorrow.

3 MR. GRUBB: May I release those other
4 witnesses?

5 THE COURT: Mr. Collins, are you okay?

6 MR. COLLINS: Yes, Your Honor.

7 MR. GRUBB: State's next witness is James
8 Daneshgar.

9 JAMES DANESHGAR,

10 having been first called by the State was sworn on
11 oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. GRUBB:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. You also go by J?

17 A. Yes.

18 Q. You work at the Office of the Chief Medical
19 Examiner?

20 A. Correct.

21 Q. How long have you worked there?

22 A. I was employed in August of 2012 as a lab
23 technician, and September of 2013 I was assigned the

1 FES position.

2 Q. What is FES?

3 A. Forensic Evidence Specialist.

4 Q. Is that what you are currently do?

5 A. Yes.

6 Q. Been doing that since September of last year?

7 A. That's correct.

8 Q. What does exactly does an FES do?

9 A. We receive, secure, transfer evidence to the
10 chemists for testing and then return evidence back to
11 the police agencies.

12 Q. You said you receive.

13 A. Correct.

14 Q. Explain to us, please, how FES would receive
15 evidence?

16 A. There are two ways. New Castle County makes
17 appointments to submit directly to our office and Kent
18 and Sussex Counties submit evidence on down state
19 courier runs, which is performed on Wednesdays.

20 Q. Do the various police agencies in New Castle
21 County have specific days they would come and drop off
22 evidence for you to receive?

23 A. Yes, correct.

1 Q. Wilmington Police Department, which day is
2 that?

3 A. Monday, 1 p.m.

4 Q. Delaware State Police, which day is that?

5 A. Tuesday and Thursdays, 11 a.m. and 1 p.m.

6 Q. Do you know Sergeant Scott McCarthy from the
7 State Police?

8 A. Yes.

9 Q. He is typically the one you deal with on drop
10 off and receiving?

11 A. Yes.

12 Q. Do you know Corporal Aaron Lewis from the
13 Wilmington Police Department?

14 A. Yes.

15 Q. He is typically the one from the Wilmington
16 Police Department that you would deal with when you
17 receive drug evidence?

18 A. Yes, correct.

19 Q. Now, before we come back to the receiving part
20 of it, you said you secure evidence. How does an FES
21 secure evidence?

22 A. It is placed inside a secured locker that is
23 in an office area that I work in.

1 Q. Is that the drug vault, so to speak?

2 A. Yes.

3 Q. Talk about that a bit more later on. Lastly,
4 I believe you said an FES returns evidence to the
5 police; is that correct?

6 A. That is also correct.

7 Q. How would you do that?

8 A. When the officer comes in to submit evidence,
9 we would also, same way that we submit it, we also
10 return cases that have been tested back to the officer.

11 Q. Would it be common for, say, Sergeant McCarthy
12 or Corporal Lewis to drop off a batch of drug evidence
13 for you to receive and then at the same time for you to
14 return drug evidence for them to take back?

15 A. Correct.

16 Q. Would you do that in batches?

17 A. Yes.

18 Q. In other words, numerous cases, not just a
19 single case; is that correct?

20 A. Correct.

21 Q. When you receive the envelopes, do you open
22 them?

23 A. No, I do not.

1 Q. Do you verify the contents of the various drug
2 envelopes?

3 A. No, I do not.

4 Q. We have heard testimony that the custodian
5 from the law enforcement agency would go to a room, and
6 go over the contents of what they are dropping off with
7 an FES. Are you familiar with that process?

8 A. Can you rephrase that?

9 Q. When Sergeant McCarthy would come in with drug
10 evidence, what would you guys do?

11 A. He would make an appointment, have his
12 appointment made. He would meet in the lobby, sign in
13 to our books. I would escort them upstairs in the
14 office area, go over the whole inventory of evidence
15 that he is submitting to us, a copy would be made for
16 him. We keep the original. Evidence would be placed
17 in a secured locker, and I would escort him back
18 downstairs.

19 Q. Talk about that part where you says go over
20 the inventory. How do you do that?

21 A. We just compare complaint numbers, defendant's
22 names to the inventory spread sheet that has been
23 provided for us. Make sure all the seals are intact,

1 none of the evidence tape has been noticeably tampered
2 with.

3 Q. Did you inspect the evidence envelopes as they
4 are submitted?

5 A. Yes.

6 Q. Tell us what you do?

7 A. You just go over the evidence tape, it should
8 already be on there from the officer, make sure there
9 is no noticeable rips, make sure that it is sealed and
10 initialed by the office who either packaged it or is
11 submitting it.

12 Q. Is that basically a visual inspection?

13 A. Yes.

14 Q. Have you ever encountered a drug evidence
15 envelope this was submitted to you that was not up to
16 par, or intact with respect to its seals?

17 A. Not that I recall.

18 Q. You have been doing the FES job since
19 September 2013?

20 A. Correct.

21 Q. If you did encounter a situation where drug
22 evidence envelope was submitted to you that had an
23 imperfection, what would you do?

1 A. The officer would be asked to reseal the
2 evidence before he or she would submit it. If they
3 were not comfortable doing so, they would return to the
4 agency with the evidence and submit it at a later date.

5 Q. Would you accept with an imperfection on it?

6 A. No.

7 Q. You were not the only FES, correct?

8 A. Correct.

9 Q. When you started in September of 2013, how
10 many other FESs were there?

11 A. Actual title itself, there is only one other
12 employee in the State has the title.

13 Q. Who would that be?

14 A. Kelly Georgi.

15 Q. You and Kelly, right?

16 A. Yes.

17 Q. You say the only people that had the actual
18 title would lead one to believe other people were
19 performing additional functions; is that accurate?

20 A. Correct.

21 Q. Were there other employees at the OCME who
22 would perform FES functions?

23 A. Yes.

1 Q. Like who?

2 A. Aretha Bailey and Laura Nichols.

3 Q. Do you know both Ms. Bailey and Ms. Nichols?

4 A. Yes, I do.

5 Q. Do you know what they did, what their job
6 titles were?

7 A. Aretha Bailey, I believe, was an admin
8 specialist. Laura Nichols is a laboratory technician
9 in the toxicology unit.

10 Q. You are not Kelly's boss, are you?

11 A. No.

12 Q. Were you Aretha Bailey's boss?

13 A. No, I'm not.

14 Q. Laura Nichols' boss?

15 A. No.

16 Q. Did you make the schedule or assignments with
17 respect to who did what?

18 A. No.

19 Q. Talk about FLIMS. What was is FLIMS?

20 A. Stands for Forensic Laboratory Information
21 Management System. It is like any other laboratory
22 management system, it's used to track evidence
23 throughout our building, as well as providing work

1 sheets, and reports for the chemists after cases have
2 been analyzed.

3 Q. Who has access to the FLIMS system?

4 A. I am not 100 percent sure who all has access.

5 Q. Do you?

6 A. Yes.

7 Q. Did Kelly Georgi?

8 A. Yes.

9 Q. Aretha Bailey?

10 A. Yes.

11 Q. Laura Nichols?

12 A. Um-hmm. Correct.

13 Q. Would someone in the DNA lab have access to
14 the FLIMS system?

15 A. Yes.

16 Q. Toxicology?

17 A. Yes.

18 Q. Arson?

19 A. Yes.

20 Q. Pathology?

21 A. Yes.

22 Q. Is there anyone in the OCME who did not have
23 access to FLIMS?

1 A. I am not sure if the admin specialists all
2 have access or not.

3 Q. Now, how would an OCME employee log into
4 FLIMS, explain that for us?

5 A. It would have to be downloaded on the computer
6 specifically to your login. If I was to login on a
7 different computer, I would have to reinstall FLIMS
8 onto the computer. It is tracked by your name and
9 unique password that you choose. It has to reset every
10 90 days.

11 Q. So you log into the system?

12 A. Yes.

13 Q. With a password that is unique to J Daneshgar?

14 A. Correct.

15 Q. Kelly would have completely separate password?

16 A. Yes.

17 Q. When you log in, does the system automatically
18 notate that it is you that logged in, or do you have to
19 populate that field by typing it in or selecting it in
20 the drop down menu?

21 A. It knows it is me as soon as I log in.

22 Q. Can you edit to try to shield it so it looks
23 like Joe Grubb logged into FLIMS?

1 A. I cannot, no.

2 Q. Is FLIMS able to be edited with respect to
3 that type of field information?

4 A. Not that I am aware of.

5 Q. So if you log into FLIMS, it is going to show
6 you logged into FLIMS?

7 A. Correct.

8 Q. As far as dates and times go with respect to
9 FLIMS, are they entered manually by the user, or are
10 those fields automatically populated depending on what
11 date and time the entry is made?

12 A. Generated automatically.

13 Q. So if you go into the FLIMS system and make an
14 entry on February 1, 2014, at 1 o'clock, will it read
15 February 1, 2014, one o'clock?

16 A. Yes.

17 Q. What if you want to go back and really put in
18 February 1st, at 10 a.m. could you do that?

19 A. I cannot, no.

20 Q. The system is incapable of handling that?

21 A. System is, I do not have access to do so.

22 Q. Who does?

23 A. I believe our RM person who takes care of --

1 I'm not 100 percent sure who would. I know I don't.

2 Q. So are you guessing, or do you know that
3 function is available?

4 A. I do know it is available because it has had
5 to be done before, but not -- I wasn't able to do it.

6 Q. So you can't do it?

7 A. Correct.

8 Q. Any idea who can?

9 A. Jack Lucy I'm pretty sure may have
10 capabilities, might even be above him.

11 Q. Who is Jack Lucy?

12 A. Basically our FLIMS manager. Any FLIMS issue
13 we have in our building we are to report to him.

14 Q. Login is unique to each employee for FLIMS,
15 correct?

16 A. Yes.

17 Q. Were you trained on the FLIMS system?

18 A. Yes.

19 Q. Explain your training, please?

20 A. Trained by a handful of people who worked in
21 the FES unit on the basic login process, different drop
22 down menus, different fields to get to to view
23 evidence, different storage units to transfer the

1 evidence into, how to print receipts after you have
2 submitted evidence, or returned evidence.

3 Q. What is FA web?

4 A. It is essentially a pre log for officers to
5 enter information on the front end. They enter basic
6 information of what is the defendant's name, officers
7 involved, what the evidence entails before it comes to
8 our office.

9 Q. Where does that end up?

10 A. After they submit the item, they get a
11 four-digit number. The case is then stored up in a
12 cloud somewhere where on our end from FLIMS, we would
13 upload the four-digit number and bring the case into
14 our FLIMS itself.

15 Q. If you print out documents from a FLIMS entry,
16 it actually reads at the top chain of custody report,
17 right?

18 A. Yes.

19 Q. If you recall, I don't want to trick you, I
20 will put it on the screen, State's Exhibit 1, page
21 five. Is this an accurate portrayal of a FLIMS
22 printout?

23 A. Yes, it is.

1 Q. At the top what I was referring to is the
2 chain of custody report. You see that?

3 A. Yes.

4 Q. Do you type that in yourself, or is that a
5 field that is automatically there for anyone who logs
6 into FLIMS?

7 A. That is there for that specific worksheet.

8 Q. To the left of that we see a specific case
9 number that begins with FE; is that accurate?

10 A. Yes.

11 Q. That number is going to change depending on
12 which entry you make, right?

13 A. Correct.

14 Q. How does that number get in there?

15 A. That is generated automatically, numerical
16 order from what cases are being entered in.

17 Q. So if you were to make an entry for case
18 number FE 2013-08741, how does that number appear on
19 this document, do you enter it in, type it in?

20 A. No, it is all linked together with this case.

21 Q. That is already going to be there?

22 A. Yes.

23 Q. Under that we see a section entitled evidence,

1 right?

2 A. Yes.

3 Q. Your FE numbers match, correct?

4 A. Yes.

5 Q. We have a description for a container A and B,
6 you see that, Mr. Daneshgar?

7 A. Yes.

8 Q. Who entered that description?

9 A. Whoever is logging in the case at that time.

10 Q. So could it be the FES?

11 A. Yes.

12 Q. Could it be you?

13 A. Yes.

14 Q. Can it be the officer?

15 A. No.

16 Q. Where do you get the information that you type
17 into that section of the FLIMS printout?

18 A. If it is pre logged, most of the time the
19 "described as" will already be in the FA web pre log,
20 otherwise we have to manually enter that in.

21 Q. Just so I am understanding, you are saying pre
22 logged. Police agencies have the ability to put that
23 information into the system where it would

1 automatically pop up when you put in that FE number?

2 A. It would not say envelope, which is described
3 initialed, sealed and dated. It would just say 857
4 bags of H, one being of cocaine.

5 Q. Is that why the quotes are around it?

6 A. Could be.

7 Q. You are not sure?

8 A. Not 100 percent sure.

9 Q. Agency, case number?

10 A. Yes.

11 Q. Different than the FE number?

12 A. Yes.

13 Q. Who put that agency case number in there?

14 A. Again, it could be done at the pre log or
15 manually entered in.

16 BY MR. GRUBB:

17 Q. Now, in your humble opinion, is FLIMS a really
18 good system, or a not so good system for what you do
19 for a living on a daily basis?

20 A. I have nothing really to compare it to. I
21 think it could be better.

22 Q. Is there room for error when you are putting
23 things into this FLIMS system?

1 A. Um-hmm. Yes, there is.

2 Q. In other words, is it possible that a FLIMS
3 printout one may obtain does not accurately represent
4 exactly what happened with that case?

5 A. Yes, it could.

6 Q. Talk about that. Page five here --

7 MR. COLLINS: May I inquire as to what
8 Exhibit?

9 MR. GRUBB: We are looking at Exhibit 1.

10 BY MR. GRUBB:

11 Q. You see the section transfers, Mr. Daneshgar?

12 A. Yes.

13 Q. Underneath transfers, the entry says, correct
14 me if I am wrong, October 7, 2013, 3:36:54 seconds in
15 the p.m., correct?

16 A. Yes.

17 Q. That would be the date and time you referred
18 to earlier that would be auto populated, correct?

19 A. Correct.

20 Q. You don't get to type anything in there, that
21 just pops up?

22 A. Yes.

23 Q. To the right of that, walk through this line

1 by line. You tell us, what do you type? What the drop
2 down menu that limits your options, and anything else
3 that is relevant to this entry. It says submitted by
4 Officer Lewis, Aaron. How do you get that in there?

5 A. There is a criteria that you have to enter in
6 a submitting officer, and an investigating officer. So
7 this submitting officer would be generated on this work
8 sheet automatically.

9 Q. So did you have to type the words Officer
10 Lewis, Aaron, or is that an option for you to click on?

11 A. Option to click on, then generates
12 automatically.

13 Q. Given Aaron Lewis' job with the Wilmington
14 Police Department?

15 A. Yes.

16 Q. That is already in there for you?

17 A. Yes.

18 Q. From Wilmington Police Department. I imagine
19 Wilmington Police Department is also an option on the
20 drop down menu?

21 A. Yes.

22 Q. Then it says, received by. We have your name,
23 correct?

1 A. Correct.

2 Q. Drop down menu or you type it in?

3 A. It knows that because I am logged in under
4 FLIMS, it's going to generate automatically.

5 Q. You don't even have an option, that is getting
6 populated right then and there?

7 A. Correct.

8 Q. We have location at DHSS OCME controlled
9 substance. How does that get there?

10 A. When you go to, I believe the criteria for
11 that is the exam you have to enter it into, would be
12 controlled substance.

13 Q. Because you could receive different items that
14 aren't necessarily a controlled substance?

15 A. Yes.

16 Q. Then we have delivery method. It says
17 hand-to-hand transfer. How do you get hand-to-hand
18 transfer in there?

19 A. It's also a drop down menu.

20 Q. Hand to hand, you mean just kind of handed it
21 to you?

22 A. Exactly.

23 Q. Before I go any further, I will refer you to

1 page two of the same State's Exhibit.

2 Are you familiar with this document,
3 Mr. Daneshgar?

4 A. Yes, I am.

5 Q. What is this?

6 A. This is essentially an inventory for the cases
7 that are being submitted to our office that the officer
8 would either hand write, or print up and bring along
9 with them with the evidence they are submitting.

10 Q. The officer brings a list already
11 predetermined of what they are bringing you and it
12 looks like this, and it would contain information on
13 page two, right?

14 A. Correct.

15 Q. Bottom here, we have two signatures, is that
16 correct?

17 A. Yes.

18 Q. Far right says ME Courier. Do you know whose
19 signature that is.

20 A. Aretha Bailey.

21 Q. Not yours, right?

22 A. It is not.

23 Q. I will represent to you this form is

1 associated with the same case that we looked at on page
2 five, FE 2013-08741, Dilip Nyala. That is Aretha
3 Bailey's name signing for this evidence, correct?

4 A. Correct.

5 Q. Have you signed these types of forms before?

6 A. Yes, I have.

7 Q. Why do you sign it?

8 A. We take possession of the evidence.

9 Q. What does it mean to you as an FES that Aretha
10 Bailey's signature is on this form?

11 A. She accounted for all the evidence that was
12 being submitted. She took custody of it.

13 Q. The date and time that it says she took
14 custody of this is what?

15 A. Looks like October 7, 2013, 1 o'clock p.m.

16 Q. Are you familiar with whose signature that is;
17 if you are not, okay?

18 A. Because I know it is Wilmington, I know it is
19 Aaron Lewis.

20 Q. Fair enough.

21 Go back to page five. The first entry in the
22 FLIMS system that we have from the chain of custody
23 report says, Aaron Lewis submitted drugs. It was

1 received by you, right?

2 A. Yes.

3 Q. Is that accurate?

4 A. No, it is not.

5 Q. Can you explain that to us, please?

6 A. The FLIMS chain of custody, first entry
7 "submitted by" is usually associated with the person
8 who logged in the case, not necessarily the person who
9 signs the Excel spread sheet inventory.

10 Q. Why doesn't the person who signed for it just
11 contemporaneously enter it into FLIMS?

12 A. I am not sure.

13 Q. When you receive evidence, do you
14 contemporaneously enter it into FLIMS at all times?

15 A. What do you mean by that?

16 Q. If I come to you, I give you drugs on
17 October 7, at 1 o'clock. Will the FLIMS printout
18 reflect that I gave you drugs on October 7th at
19 1 o'clock?

20 A. No, it would not.

21 Q. Explain that?

22 A. It generates the time when the case is logged
23 in.

1 Q. So why wouldn't you log it in right when I
2 give it to you?

3 A. We often don't have the time to do it.

4 Q. Explain that?

5 A. We take several appointments throughout the
6 day, depending on lunch hours, where you are in the
7 building, sometime you don't have a chance to do it
8 right away.

9 Q. When do you do it?

10 A. As soon as we have a chance.

11 Q. Is there a procedure in place as to what sort
12 of time lapse is permissible with respect to entering
13 it into the system?

14 A. No.

15 Q. So you do it when you can get to it?

16 A. Correct.

17 Q. Where are the drugs in the interim?

18 A. In the secured locker?

19 Q. Drug vault?

20 A. Yes.

21 Q. How do you know that?

22 A. (No response.)

23 Q. If you are going to enter this entry, we are

1 looking at page five of State Exhibit 1. Where do you
2 get the drugs?

3 A. I get them from the secured locker, from the
4 vault.

5 Q. If you got them from any area that was not a
6 secured locker, would you enter it into the system?

7 A. No, I would not.

8 THE COURT: Are you telling the Court that in
9 this particular case, since we know you didn't accept
10 the drugs, that Mrs. Bailey did it?

11 THE WITNESS: Yes.

12 THE COURT: That she used the computer that
13 was already up, that you had logged into already, that
14 she then failed to get you out of the computer, and she
15 didn't log in, she just used the computer that was up
16 and therefore it appears your name?

17 THE WITNESS: No, that is not correct.

18 THE COURT: How does appear your name?

19 THE WITNESS: I physically logged the evidence
20 into FLIMS.

21 THE COURT: Even though she accepted it?

22 THE WITNESS: Yes.

23 THE COURT: Tell me why you would take the

1 responsibility of putting it in, even though you didn't
2 accept it?

3 THE WITNESS: Just way we have done it, the
4 way I was trained to do it.

5 THE COURT: So the document is clearly
6 incorrect.

7 THE WITNESS: Correct.

8 BY MR. GRUBB:

9 Q. So you add this document, that is not
10 accurate, right?

11 A. Yes.

12 Q. You have the other form that is signed by the
13 officer dropping off items, and the OCME employee
14 receiving the evidence, correct?

15 A. Yes.

16 Q. Would there be a way for you to go into the
17 FLIMS system and say on October 7, 2013, at one o'clock
18 Aretha Bailey received this evidence from Aaron Lewis?

19 A. Yes, there is.

20 Q. Why didn't you do it?

21 A. We never -- I was never taught to do it that
22 way.

23 Q. Are you sure you can do it, or are you

1 guessing?

2 A. There is a comment section that gives you the
3 ability to enter in whatever you please. So it could
4 have been done.

5 Q. So you can make that, you can put in the
6 comments section, a comment explaining that you are not
7 really the one who receives the drugs; is that
8 accurate?

9 A. Yes.

10 Q. Are you able to generate, you, J Daneshgar,
11 are you able to generate a FLIMS printout that would
12 read submitted by Officer Lewis, Aaron, Wilmington
13 Police Department, received by Bailey, comma, Aretha
14 and change the 3:36 time to 1 p.m.?

15 A. I cannot do that.

16 Q. Can anyone do that?

17 A. Not to my knowledge.

18 THE COURT: You could write in the comment
19 section received by Mrs. Bailey at 1 o'clock.

20 THE WITNESS: Yes.

21 BY MR. GRUBB:

22 Q. We see that comments section right there,
23 right, would that be accurate?

1 A. Correct.

2 Q. So they are all blank across the board?

3 A. Um-hmm.

4 Q. So if we were to go by the FLIMS printout, it
5 appears as though you made the FLIMS entry for Dilip
6 Nyala drug dealing case, two-and-a-half hours after
7 Aretha Bailey received the drugs from Aaron Lewis; is
8 that fair?

9 A. Yes, it is.

10 Q. We will come back to the specific Nyala and
11 Irwin cases.

12 THE COURT: There is nothing to prevent
13 Ms. Bailey from making an entry, she has access just
14 like you have access?

15 THE WITNESS: Correct.

16 BY MR. GRUBB:

17 Q. Was it common that the person receiving the
18 evidence would not necessarily be the person reflected
19 in the FLIMS chain of custody printout?

20 A. Yes, it is.

21 Q. Is there any reason why that would be?

22 A. Just the way we have done it, the way I was
23 trained to do it.

1 Q. Would you maintain the form that was signed by
2 both the officer and the OCME employee receiving it?

3 A. Yes, we had three-ring binders that we store
4 all paper chain of custodies in.

5 Q. Anything else with the FLIMS system that we
6 are not accurately understanding that would help us get
7 the process for an FES or any employee to make entries
8 into that system?

9 A. No, I don't think so.

10 Q. We will get to it when we get to specifics;
11 fair to say that chemists could also make entries in
12 the FLIMS system for a particular case?

13 A. I am not sure.

14 Q. Let's talk about Medical Examiner's office.

15 Can anyone just walk into the building, before
16 we get to a specific lab, the building itself, can
17 anyone just walk in, or no?

18 A. No.

19 Q. Explain that?

20 A. We have doors activated by key fobs, or you
21 ring a bell and be let in by the receptionist at the
22 front desk.

23 Q. Who is issued a key fob to get into the

1 building?

2 A. Who is issued a key fob.

3 Q. Yes, sir?

4 A. Everybody that works in the building.

5 Q. If you work there, you get a key fob, that is
6 how you get in?

7 A. Yes.

8 Q. You don't have a key fob, you have to hit the
9 button and wait for a receptionist to let you in?

10 A. Yes.

11 Q. Do employers lend each other their key fob?

12 A. I do not. I don't know if anyone else does.

13 Q. Are you allowed to?

14 A. You are not supposed to.

15 Q. To get in the front door, you need a key fob.

16 Now, talk about the drug locker?

17 THE COURT: Before you go, can I see counsel.

18 (Discussion held off the record.)

19 BY MR. GRUBB:

20 Q. I am going to put on the screen State's 19.

21 Can you see that?

22 A. Yes.

23 Q. Who took this photograph?

1 A. I did.

2 Q. What is the photograph of?

3 A. It is the entry door for the FES office area.

4 Q. Now, describe for us, if you could, please,
5 what is the purpose of this FES office area?

6 A. It is a secured area to receive or return
7 evidence, as well as logging in evidence.

8 Q. You say secured area. How is it secured?

9 A. It has a lock that requires a six-digit number
10 that you would have to enter in that is unique to each
11 employee. You would also have to have your code
12 manually put into the door before you can use it.

13 Q. You can touch the screen, circle what you are
14 referring to as the security system that would require
15 you to put the code in?

16 A. (Indicating).

17 Q. This is the door to get into the office which
18 leads to the drug vault; is that accurate?

19 A. Correct.

20 Q. You referenced, I believe you said, a
21 six-digit code that is required to get in there?

22 A. Correct.

23 Q. You previously referenced a key fob, is a key

1 fob required to get through the door?

2 A. No.

3 Q. The six-digit code that you testified to, you
4 said that it is unique to each employee?

5 A. Yes.

6 Q. So you, yourself, J Daneshgar, the employee
7 has a six-digit code to get into that door; is that
8 accurate?

9 A. Yes.

10 Q. So you referenced, talk about Aretha Bailey.
11 Would Aretha Bailey have a separate six-digit code that
12 she would need to use to get through that door?

13 A. Yes, she would.

14 Q. Did every OCME employee have a unique code to
15 get in that door, or was access, in terms of codes,
16 limited?

17 A. It was limited.

18 Q. Are you able to tell us who it was limited
19 with?

20 A. I would assume people that had to work in the
21 FES unit. Outside of that I am not really sure.

22 Q. So FES would have that code?

23 A. Yes.

1 Q. Meaning yourself, and I believe you said Kelly
2 Georgi. You previously testified that Aretha Bailey
3 and Laura Nichols would perform FES functions; is that
4 accurate?

5 A. Yes.

6 Q. Safe to say they would have their six-digit
7 code, as well?

8 A. Yes.

9 Q. How about the controlled substance lab
10 manager?

11 A. Yes.

12 Q. Who is that currently?

13 A. Robin Quinn.

14 Q. Who was that back prior to Robin Quinn?

15 A. Caroline Hance.

16 Q. Do you recall when the changing of the guard,
17 so to speak, took place?

18 A. I believe it was in December, sometime in
19 December.

20 Q. Of 2013?

21 A. Yes.

22 Q. If the lab manager of the toxicology unit
23 wanted to get through that door, would they have their

1 own six-digit code?

2 A. No.

3 Q. If the DNA manager wanted to get through that
4 door, could they do so with their own unique six-digit
5 code?

6 A. No.

7 Q. Same question for any other employee that does
8 not fit the description that you already testified?

9 A. Not to my knowledge, they could not.

10 THE COURT: Having a unique code would give
11 one the impression that there is some record as to who
12 is entering this office because, otherwise, there would
13 be no reason to have a unique code for each employee
14 that has access. Do you know if there is any recording
15 of who actually enters, and when they enter?

16 THE WITNESS: I do not.

17 BY MR. GRUBB:

18 Q. State's Exhibit 20 is now on the screen,
19 Mr. Daneshgar. What are we looking at here?

20 A. This is inside the FES office area. The door
21 over on the left corner accesses the evidence vault
22 itself.

23 Q. Circle that, please?

1 A. Yes, I can (indicating).

2 Q. That is the door to get into the vault?

3 A. Yes.

4 Q. Where the drugs would be kept?

5 A. Yes.

6 Q. What is this area to our left over here?

7 A. Rolling shelf units used in the past for case
8 records.

9 Q. Like files?

10 A. Yes.

11 Q. Would it be used for storage with respect to
12 drug evidence envelopes?

13 A. No, it would not be.

14 Q. This is -- is this the area that you
15 previously referred to when you would go through the
16 items that are dropped off by the officer, you are
17 comparing numbers to make sure you have the right
18 items?

19 A. Yes.

20 Q. This is office that would take place in?

21 A. Yes, it is.

22 Q. Is there -- we see in the background, I
23 believe, a computer; is that correct?

1 A. That is actually a plaque.

2 Q. Is there a computer in this room?

3 A. Yes, there are two.

4 Q. We just can't see them?

5 A. Correct.

6 Q. Would that on the right-hand side there?

7 A. Yes.

8 Q. What would the purpose be for computers to be
9 in this FES office?

10 A. To access FLIMS.

11 Q. Is that where you would make your entries?

12 A. Yes.

13 Q. This is State's Exhibit 21. What are we
14 looking at, Mr. Daneshgar?

15 A. This is a key pad, this is the door itself to
16 get into the evidence vault.

17 Q. That is the door we saw on a previous Exhibit?

18 A. Yes, it is.

19 Q. The key pad over here that is now circled.
20 You see that?

21 A. Yes, I do.

22 Q. Explain for us, please, what the process is to
23 input a code for that key pad?

1 A. The key pad used for the alarm system for the
2 vault, you have to enter in a four-digit code followed
3 by the pound symbol to alarm it or disarm it.

4 Q. Now, is that four-digit code unique to each
5 employee as the previous one was, or is that unique to
6 that door?

7 A. That door itself for the drug vault.

8 Q. So anyone who has the code to the drug vault
9 would be able punch it in and get through the door?

10 A. Correct.

11 Q. Who had access to that code?

12 A. I would assume everyone that worked in the
13 unit, as well that logged in evidence.

14 Q. Same people?

15 A. Yes.

16 Q. Do chemists?

17 A. No.

18 Q. I will ask you the same question, same laundry
19 list of people we went through at the various other
20 units, should they have that code?

21 A. No.

22 Q. Could you please circle for us the area that
23 would require use of the key fob that you testified to?

1 A. Key fob is (indicating).

2 Q. Now each key fob is unique to each employee,
3 correct?

4 A. Yes, it is.

5 Q. As the Court asked you before, presumably, one
6 would be able to track the use of an individualized key
7 fob, or an individualized numeric code, correct?

8 A. Can you repeat that?

9 Q. So if J Daneshgar used his key fob to get into
10 fill-in-the-blank door, would that be recorded
11 somewhere, to the best of your knowledge, that this
12 date at this time you used your key fob to get into
13 that door?

14 A. Yes, I believe.

15 Q. Do you control that system?

16 A. No.

17 Q. Do you have anything to do with that system?

18 A. No.

19 Q. Have you ever seen it?

20 A. No, I have not.

21 Q. I will come back to that and ask you a number
22 of questions with respect to accessibility. Let's
23 round out our tour. State's Exhibit 22 is depicting

1 what?

2 A. Inside the vault itself looking at the entry
3 door that I just described.

4 Q. What are all these items here that appear to
5 be in boxes and or mail bins; do you know?

6 A. They are boxes that were used for transporting
7 cases to the chemists.

8 Q. You took this picture, right?

9 A. Yes, I did.

10 Q. When did you take it?

11 A. Last week.

12 Q. So you took it sometime after the Delaware
13 State Police took control of the locker; is that
14 correct?

15 A. Yes. There is currently no evidence in there.

16 Q. Would we normally see drug evidence on those
17 shelves?

18 A. Yes, in the boxes you would.

19 Q. Was there a system or process in place as to
20 where drug evidence is supposed to be inside the vault?

21 A. Depending if tested or not, yes.

22 Q. Could you briefly explain that for us, please?

23 A. When cases come in, they are assigned an FE

1 number to track them in FLIMS. They are placed in
2 numerical order on the rolling shelves. Boxes are used
3 primarily for cases that need to be logged in, or cases
4 that need to be returned to an officer.

5 Q. State's Exhibit 23, what are we looking at in
6 State's Exhibit 23?

7 A. Another view inside of the vault. I am
8 standing in the doorway itself looking in.

9 Q. Those over here are what?

10 A. Those are rolling shelves that would contain
11 evidence that needs to be tested.

12 Q. That is the drug vault, right?

13 A. Yes, it is.

14 Q. Are you familiar with the term pass through?

15 A. Yes, I am.

16 Q. Please explain for us what that means?

17 A. When chemists are done analyzing cases, they
18 place them in a secured locker known as a pass through.
19 There is 12 bank lockers they can access from the
20 hallway, with push button locks. There is one master
21 door in the vault itself we would open to access the
22 cases that have been tested.

23 Q. On this screen is State's Exhibit 24. What

1 are we looking at?

2 A. Those are the banks from inside the hallway.

3 Q. So is that, like, the pass-through locker?

4 A. That is the pass through from the outside the
5 chemists would access.

6 Q. How is this area secured?

7 A. They have push button locks. After a case is
8 put in there, the chemist would manually push the
9 button in, which would lock it. It would only be
10 unlocked from inside the evidence vault.

11 Q. So when a chemist is done with their drugs,
12 they would then put it in one of those lockers; is that
13 correct?

14 A. Correct.

15 Q. Then they would secure it by, you said,
16 pushing a push lock?

17 A. Yes.

18 Q. Is that because the chemists don't have access
19 to the vault?

20 A. That is absolutely correct.

21 Q. Is there a way to unlock one of those lockers
22 from the outside in this view that we have in this
23 photograph?

1 A. No, there is not.

2 Q. How do you get the drugs out?

3 A. There is a master door in the vault itself
4 that opens that has a view inside of 12 bank lockers.

5 Q. I will put on the screen State's Exhibit 25.

6 A. That is the door inside the vault that
7 accesses the pass through.

8 Q. If you -- we're talking about ones in the
9 middle here?

10 A. Yes.

11 Q. If you were to open that door, we don't have a
12 photograph of it, could you give us a visual of what we
13 would be looking at?

14 A. Basically, it looks like cubbies. There would
15 be 12 spots, various sizes for, you know, depending on
16 how large the case is. We would open that up then pull
17 the evidence out of there, then secure the door.

18 Q. How is that door secured?

19 A. There is a lock with a key.

20 Q. Who has the key?

21 A. Right now Delaware State Police does.

22 Q. Sorry, poor question.

23 Normally, who would have the key to access

1 that door to the pass through?

2 A. I would.

3 Q. Would the other FESSs?

4 A. No, they would not.

5 Q. If you open up that door, would you have 12
6 different cubbies, you could access each one, or would
7 it be 12 individualized doors like the locker?

8 A. 12 opened up cubbies.

9 Q. What would you do with the drugs if you were
10 to unlock that door, and remove them?

11 A. What would I do with the drugs?

12 Q. What would the purpose be for you to remove
13 drugs from one of those locker in the pass through to
14 somewhere else?

15 A. They have already been tested. They would be
16 put in cardboard boxes that were shown a couple
17 pictures ago for cases that need to be returned back to
18 agencies.

19 Q. Those cardboard boxes are located where?

20 A. Also in the vault.

21 Q. Same vault?

22 A. Yes.

23 Q. We are looking at this, we are in the vault

1 again?

2 A. We are in it.

3 THE COURT: Are they put in boxes depending on
4 what agency?

5 THE WITNESS: There is different agencies,
6 some larger ones have their own boxes, some of the
7 smaller ones are separated into several boxes together.

8 BY MR. GRUBB:

9 Q. Let's talk a bit about what have been termed
10 general chemist lockers. Are you familiar with that
11 term, Mr. Daneshgar?

12 A. Yes, I am.

13 Q. Can you explain for us what we mean by general
14 chemist lockers?

15 A. They are referred to as the general lab
16 lockers. General lab is one of the labs within the
17 Controlled Substance Unit itself. There is, I believe,
18 16 to 18 lockers, three for each chemist's case are
19 transported to before testing that the chemist would
20 access to do their analysis on.

21 Q. Put on the screen State's Exhibit 26. What
22 are we looking at?

23 A. The bank of locker in the general lab.

1 Q. What room is this set of lockers in?

2 A. General lab in the Controlled Substance Unit.

3 Q. Is the general lab secured in any fashion?

4 A. Yes, it also features the same padlock that
5 requires a six-digit code to access this.

6 Q. That would be a six-digit code unique to each
7 employee, or unique to the room?

8 A. Each employee.

9 Q. Did you have access to get into the lab?

10 A. Yes.

11 Q. Would all FES personnel have access to get
12 into the lab?

13 A. Yes, they would.

14 Q. Same with chemists, I imagine?

15 A. Yes.

16 Q. Would employee that were not necessarily in
17 FES, but acted in that capacity, have a code to access
18 the lab, like Aretha Bailey, or Laura Nichols?

19 A. Yes.

20 Q. Anyone else that you are aware of?

21 A. No.

22 Q. Access was supposed to be limited?

23 A. Yes.

1 THE COURT: When you are at a logical place to
2 stop, we will stop.

3 MR. GRUBB: One more photo.

4 THE COURT: Fine.

5 BY MR. GRUBB:

6 Q. We also see in the photograph, Mr. Daneshgar,
7 it looks like little locks; is that accurate?

8 A. Yes; it is.

9 Q. Is that how those lockers were secured?

10 A. Yes.

11 Q. Is that manned by a combination, or a key, or
12 how would that, if you know?

13 A. Four-digit combination.

14 Q. Is each combination different for each locker
15 or is each combination different for each chemists?

16 A. Each chemist.

17 Q. Each chemist had their own unique combo lock?

18 A. Yes.

19 Q. Would you have access to that combo lock?

20 A. Yes, I would.

21 Q. I will put on the screen --

22 THE COURT: Are those locks by chemist, so
23 each chemist that their own locker. When you are going

1 to give them a piece of evidence to test, you would put
2 it in their locker?

3 THE WITNESS: Correct. The orange labels on
4 there contain the names of the chemists that is
5 assigned to those lockers.

6 THE COURT: Thank you.

7 BY MR. GRUBB:

8 Q. State Exhibit 27, give us an idea what we are
9 looking at here, please?

10 A. That is Patricia Phillips' individual locker
11 at her work bench.

12 Q. Who is she?

13 A. One of the chemists.

14 Q. Does each chemist have their own
15 individualized additional locker like this?

16 A. Yes.

17 Q. How is that locker secured?

18 A. By key.

19 Q. You have the key?

20 A. I do not.

21 Q. Anyone outside the individualized chemist have
22 the key?

23 A. Not that I know of.

1 Q. Is this in the same room the lab is?

2 A. Yes, this is in the lab she works in.

3 Q. Before we end for today. Drugs come in,
4 officer goes to the receptionist area, right?

5 A. Yes.

6 Q. You or one of your colleagues get buzzed to
7 come down and greet that officer?

8 A. Correct.

9 Q. You go up, you go through that door, right?

10 A. Yes.

11 Q. State's Exhibit 19. You then go in State's
12 Exhibit 20, what you described as the FES office; is
13 that accurate?

14 A. Yes.

15 Q. That is where you do what you termed your
16 confirming that what is on the sheet that is signed is
17 what has actually been submitted to you number wise?

18 A. Yes.

19 Q. You don't open the evidence envelope to
20 confirm what drugs are?

21 A. Not at all.

22 Q. You then go State's Exhibit 21, through the
23 vault door, that is where the drugs are secured; is

1 that correct?

2 A. Yes.

3 Q. Eventually drugs are assigned to a chemist to
4 be analyzed; is that accurate?

5 A. Yes.

6 Q. That would go to State's Exhibit 26, one of
7 those lockers?

8 A. Yes.

9 Q. Then depending on each individual chemist,
10 maybe, maybe not, it goes to State's Exhibit 27 to the
11 extra locker?

12 A. Yes.

13 Q. When the chemist is done, we expect it to be
14 returned to State's Exhibit 24, known as the pass
15 through?

16 A. Correct.

17 MR. GRUBB: Your Honor, if it pleases the
18 Court, I can stop there.

19 THE COURT: Okay. You may step down. We will
20 be in recess until 10 o'clock. I have a motion
21 calender at 9:15. If I am running late, that is where
22 I am.

23 (Whereupon the proceedings were adjourned.)

CERTIFICATE OF COURT REPORTER

I, John P. Donnelly, RPR, Chief Court Reporter of the Superior Court, State of Delaware, do hereby certify that the foregoing is an accurate transcript of the proceedings had, as reported by me, in the Superior Court of the State of Delaware, in and for New Castle County, in the case herein stated, as the same remains of record in the Office of the Prothonotary at Wilmington, Delaware. This certification shall be considered null and void if this transcript is disassembled in any manner by any party without authorization of the signatory below.

WITNESS my hand this 25th day of JULY,
2014.

Cert. # 161-PS

/s/ John P. Donnelly, RPR
Chief Court Reporter